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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1888.

No. ~~1491~~. 1085 ~~740~~ 324

JOHN CADWALADER, COLLECTOR OF CUSTOMS FOR THE DISTRICT OF PHILADELPHIA, PLAINTIFF IN ERROR,

vs.

JOHN WANAMAKER, THOMAS B. WANAMAKER, AND ROBERT C. OGDEN, TRADING AS JOHN WANAMAKER.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

FILED FEBRUARY 1, 1889.

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1 UNITED STATES,
Eastern District of Pennsylvania, sct.:

The President of the United States to the judges of the circuit court of the United States in and for the eastern district of Pennsylvania, greeting:

Because that in the record and process and also in the rendering of judgment in a suit before you, between John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, plaintiffs, and John Cadwalader, collector of customs for the district of Philadelphia, defendant, in a plea of assumpsit, a manifest error has intervened to the great damage of the said John Cadwalader, collector, &c., as in his complaint has been stated; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done the parties aforesaid in this behalf, you are hereby commanded that if judgment thereof be given, then under your seal you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them and this writ, so that you have the same before the honorable the Justices of the Supreme Court of the United States, sitting at Washington, D. C., on the second Monday of October next, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the Honorable Melville W. Fuller, Chief-Justice of the Supreme Court of the United States, at Philadelphia, this eighth day of December, A. D. one thousand eight hundred and eighty-eight, and in the one hundred and thirteenth year of the Independence of the said United States.

[SEAL.]

SAMUEL BELL,
Clerk of Circuit Court U. S.

2 THE UNITED STATES OF AMERICA, *ss:*

To John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, wherein John Cadwalader, collector of customs for the district of Philadelphia, plaintiff, and you are defendant in error, to show cause, if any there be, why the judgment rendered against said plaintiff in error, as in said writ of error mentioned, shall not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness my hand this ninth day of January, in the year of our Lord one thousand eight hundred and eighty-nine.

W. MCKENNAN,
Cir. Judge.

Service accepted this 9th day of January, A. D. 1889.

EDW. L. BODIN,
Solicitor for Deft. in Error.

3 In the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit.

JOHN WANAMAKER, THOMAS B. WANAMAKER, and Robert C. Ogden, trading as John Wanamaker,

vs.

JOHN CADWALADER, COLLECTOR OF CUSTOMS for the district of Philadelphia.

Pleas and proceedings before the honorable the judges of the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, of April session, 1888, *No.* 15.

It is thus contained:

Be it remembered that, on the 7th day of April, in the year of our Lord one thousand eight hundred and eighty-eight, John R. Read, esq., attorney of the United States for the eastern district of Pennsylvania, comes into court here and presents the petition of John Cadwalader for the removal of the cause from the court of common pleas, No. 4, for the
4 county of Philadelphia, State of Pennsylvania; which said petition being filed, is in the words and of the tenor following, to wit:

5 In the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit.

The petition of John Cadwalader, collector of customs for the district of Philadelphia, repectfully represents: That a suit has been commenced by summons case against him as defendant by John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, in the court of common pleas No. 4, for the county of Philadelphia, in the State of Pennsylvania, to March term, 1888, No. 748.

That the said suit is brought on account of an act done by him under the revenue laws of the United States, as collector of the customs for the district of Philadelphia; the said suit being to recover a certain sum of money paid for and on account of the said plaintiffs to the said defendant as collector aforesaid, as duties on certain merchandise.

Your petitioner respectfully prays that the said cause may be entered on the docket of your honorable court, and proceeded in as a cause therein originally commenced, and that a writ of certiorari be immediately issued by the clerk of your honorable court, to the said court of common pleas No. ——, for the county of Philadelphia, to send to the said circuit court of the United States the record and proceedings in said cause, according to the provisions of the act of Congress in such case made and provided.

And he will ever pray, &c.

JOHN CADWALADER,
Collector of Customs.

John Cadwalader, being duly sworn, says that the facts set forth in the above petition are true, to the best of his knowledge and belief.

Sworn and subscribed before me this thirty-first day of March, 1888.

[SEAL.] WM. MCLEAN,
Notary Public, Philadelphia.

I hereby certify that as counsel for the above petitioner, I have examined the proceedings against him, and carefully enquired into all the matters set forth in the above petition, and that I believe the same to be true.

JOHN R. READ,
Per B.,
U. S. Attorney.

6 (Indorsed:) No. 15. April sessions, 1888. Circuit court, United States, eastern district of Pennsylvania, in the third circuit. Wanamaker, et al., trading as John Wanamaker, vs. John Cadwalader, collector, &c. Petition for certiorari. John R. Read, attorney for petitioner. Filed April 7, 1888.

7 Which said petition being filed, it was ordered by the court here that a writ of certiorari do immediately issue, directed to the court of common pleas No. 4, for the county of Philadelphia, State of Pennsylvania, which said writ was in the words following, to wit:

8 UNITED STATES OF AMERICA,
Eastern District of Pennsylvania, set:

The President of the United States to the honorable the judges of the court of common pleas No. 4, for the county of Philadelphia, in the State of Pennsylvania, greeting:

Whereas lately in your said court of common pleas No. 4 suit was commenced against John Cadwalader, collector of customs for the district of Philadelphia, by John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, to your March term, 1888, No. 748, which said suit, as it is said, is still pending before you in the said court of common pleas No. 4 undetermined; and whereas, on the application of the said John Cadwalader, collector, &c., to the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, on a suggestion supported by proper evidence, that the said suit was brought on account of an act done by him, under color of his office, as collector of customs for the district of Philadelphia, the said suit having been brought to recover certain moneys paid by the said plaintiffs to the said John Cadwalader, collector, &c., aforesaid, for duties on certain merchandise claimed to be due and owing from the said plaintiffs to the United States of America, and praying that a writ of certiorari may be immediately issued by the clerk of the said circuit court of the United States, directed to the said court of common pleas No. 4, to send to the said circuit court of the United States the record and proceedings in the said cause, according to the provision of the act of Congress in such case made and provided:

Wherefore you are hereby commanded to transmit, under your seal, the record and proceedings of the said suit, with all things thereunto relating, unto the said circuit court of the United States, to be holden at Philadelphia, for the eastern district of Pennsylvania, in the third circuit, on the first Monday of May next, plainly and distinctly, in as full and ample manner as it now remains before you, together with this writ, so that the said circuit court of the United States may be able therein to proceed and do what shall appear of right ought to be done.

Witness the honorable Samuel F. Miller, associate justice of the Supreme Court of the United States at Philadelphia, this 7th day of April, A. D. 1888, and in the 112 year of the independence of the United States.

[SEAL.]

SAMUEL BELL,
Clerk of Circuit Court, U. S.

9 (Indorsed:) No. 15. April sess., 1888. Circuit court, U. S. Wanamaker et al., trading as John Wanamaker, vs. John Cadwalader, collector. Writ of certiorari. Brought into office Ap'l 7, 1888. Jas. W. Fletcher, pro proth'y. Filed May 29, 1888.

10 *Exemplification.*

PHILADELPHIA COUNTY,
State of Pennsylvania, sct:

Among the records and proceeding of the court of common pleas No. 4 for the county of Philadelphia, State of Pennsylvania, the following may be found as matter of file and of record at No. 748 of March term, 1888, to wit:

Docket entries, March term, 1888.

Edw. L. Boden.	John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker,	Sums. assumpsit exit, M'ch 20, 1888.
	vs.	Ret. 1 Mon. Ap'l, 1888.
748.		Served.
Jno. R. Read.	John Cadwalader, collector of customs for the district and port of Philadelphia.	Ap'l 7, 1888. Certiorari from circuit ct. of U. S. for e'st. Pa. (of April sess., 1888, No. 15) bro't into office.
M'ch 31, 1888.	April 28, 1888. Statement of demand, with bill of particulars, filed.	

Certified from the record, May 16, 1888.

E. J. LINDSAY,
Pro Proth'y.

11 In the court of common pleas of the county of Philadelphia, No. 4, of March term, 1888.

JOHN WANAMAKER, THOMAS B. WANAMAKER, and Robert C. Ogden, trading as John Wanamaker,
vs.
JOHN CADWALADER, COLLECTOR OF CUSTOMS for the district and port of Philadelphia.
} No. ——.

Præcipe for summons in assumpsit.

Issue summons in action of assumpsit returnable to 1st Monday of April, 1888.

To the prothonotary of said county.

EDW. L. BODIN,
Plaintiffs' Attorney.

MARCH 20, '88.

(Endorsed:) No. 748. March term, 1888. John Wanamaker, etc., trading as John Wanamaker, vs. John Cadwalader, collector, &c. Præcipe for summons in assumpsit; filed Mar. 20, 1888; Hunter, pro proth'y; Edw. L. Boden, plaintiffs' attorney.

12 *Summons. Assumpsit.*

COUNTY OF PHILADELPHIA, *ss:*

The Commonwealth of Pennsylvania to the sheriff of the county of Philadelphia, greeting:

We command you, that you summon John Cadwalader, collector for the district and port of Philadelphia, late of your county, so that he be and appear before our judges at Philadelphia, at our court of common pleas No. 4, of the county of Philadelphia, in and for said county, on the first Monday of April next, there to answer John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, of a plea of assumpsit. And have you then and there this writ.

Witness the honorable M. Russell Thayer, president judge of our said court at Philadelphia, the twentieth day of March, in the year of our Lord one thousand eight hundred and eighty-eight.

[SEAL.] J. W. G. HUNTER,
Pro Prothonotary.

13 (Indorsed:) 748. March term, 1888. Court of common pleas No. 4. John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, vs. John Cadwalader, collector of customs for the district and port of Philadelphia. Summons. Assumpsit. Edw. L. Boden.

Served John Cadwalader, collector of customs for the district and port of Philadelphia, by giving to him March 29, 1888, a true and attested copy of the within writ and making known to him the contents thereof. So answers.

JAMES F. HEVRON,
Deputy Sheriff.
C. H. KRUMBHAAR,
Sheriff.

14 WANAMAKER ET AL., TRADING, &C., *vs.* CADWALADER, COLLECTOR, &C. } C. P. 4. M. 88. No. 748.

Enter my appearance in above for defendant.

JOHN R. READ,
U. S. Attorney.

M'CH 31, 1888.

(Endorsed:) C. P. 4. M. '88. No. 748. Wanamaker et al. vs. Cadwalader, collector, &c. Order for appearance. Filed Mar. 31, 1888. E. J. Walker, pro proth'y. Read.

15 C. P. No. 4. March term, 1888.

JOHN WANAMAKER ET AL., TRADING, &C.,
vs.
JOHN CADWALADER, COLLECTOR OF CUSTOMS for the district and port of Philadelphia. } No. 748.

Statement of plaintiffs' demand.

The plaintiffs claim to recover from the defendant moneys paid under protest by the plaintiffs to the defendant as collector of customs for the district of Philadelphia, as duties, in order to obtain possession of merchandise imported for the plaintiffs, which moneys were demanded and collected by defendant in excess of the amount of duties authorized by law. Annexed hereto and intended as part of this statement is a bill of particulars showing the dates and amounts of such payments in excess. Plaintiffs aver that there is now due and owing by the defendant the full amount of such payments, as shown by said bill of particulars, with interest from their respective dates.

EDW. L. BODEN,
Attorney for Plaintiffs.

AP'L 28, '88.

16 (Indorsed:) 748. March term, 1888. C. P. No. 4. John Wanamaker et al., trading, &c., vs. John Cadwalader, collector of customs for the district and port of Philadelphia. Statement of plaintiffs' demand, with bill of particulars. Filed Apr. 28, 1888. J. Kenderdine, pro proth'y. Edw. L. Boden, attorney for plaintiffs. Ap'l 28, '88.

	Description of goods.	Name of vessel.	Whence imported.	Date of invoice.	Amount duty illegally exacted.	Date of entry at custom-house.	Date of payment of duties in excess.	Protest filed.	Date of appeal to Secretary of the Treasury.	Date of Secretary's decision.	Number of entry.
1	Silk ribbons and trimmings for hats..... J A V W P 1267.	Indiana.....	Liverpool.....	1887. Aug. 16	54.30	1887. Sept'r 9	1887. Sept'r 12	1887. Nov. 22	1887. Nov. 22	1888. Jan'y 7	WH 10744.
2	Embroidered initial handkerchiefs..... J W 1102/1103	State of Georgia..	Glasgow	Sept'r 30	203.80	Oct'r 12	Nov. 8	" 26	" 26	" 16	WH 12423.
3	do. W P 19/20	....do	....do	Oct. 1		" "	Dec'r 14	" "	" "	" "	Do.
4	Mechanical musical trumpeter J W W P 1314...	Indiana.....	Liverpool.....	Sept'r 30	9.60	" 16	Oct. 20	Dec. 9	Dec. 9	" 17	C 12642.
5	Philosophical instruments W H 741/742	Lord Gough	....do	Ap'l 26	93.50	May 18	Nov. 17	" 7	" 7	" "	C 12818.
6	Hat trimmings J No V W P 1279.....	British King.....	.. do	Sept'r 2	95.45	Sept'r 21	Sept'r 27	Nov. 19	Nov. 19	" 18	WH 11401.
7	Silk ribbons, &c., for hat trimmings J W T P 1159 1160.	Lord Clive.....	....do	Feb. 18	77.70	Mch. 10	Mch. 16	" "	" "	" 19	C 3039.
8	do., J W F P V #1182	British Prince...	....do	" 25	12.90	" 21	" 22	" "	" "	" "	C 3343.
9	do., 37 J W 37 P V #1193.....	British Princess ..	....do	Mch. 4	8.40	" 24	" 28	" "	" "	" "	C 3623.
10	do., K. K. & Co., #7445.	Aller	Bremen.....	Aug. 16	142.20	Sept'r 6	Sept'r 10	" "	" "	" "	C 10781.

Bill of particulars.—Name of importer (for all the importations), John Wanamaker—Continued.

	Description of goods.	Name of vessel.	Whence imported.	Date of invoice.	Amount duty illegally exacted.	Date of entry at custom-house.	Date of payment of duties in excess.	Protest filed.	Date of appeal to Secretary of the Treasury.	Date of Secretary's decision.	Number of entry.
				1887.		1887.	1887.	1887.	1887.	1888.	
11	do., J W P CMV D O 35 #1290	British Prince	Liverpool	Sept. 10	10.00	Oct. 3	Oct. 5	Nov. 19	Nov. 19	Nov. 18	C 12040.
12	Charges for carriage on J W P 202 # 230	do	do	Aug. 8	8.40	Aug. 25	Sept'r 26	Dec. 2	Dec. 2	" 23	WH 10244.
13	Scientific instruments J W P 49 No. 46 #1337	do	do	Oct. 28	2.70	Nov. 16	Nov. 18	" 9	" 9	" 31	C 13905.
14	Musical cigar stands J W P #3424	British Princess	do	Sept. 10	12.60	Oct. 10	" 16	" 10	" 10	" "	WH 12331.
15	Albums in cases J W T P 1818 / 1820 1884	Lord Gough	do	" 26	60.00	" 24	Dec. 1	" 12	" 12	Feb. 1	WH 13034.
	Total				791.55						

18 And afterwards, to wit, on the first day of May, A. D. 1888, the said defendant, by his attorney, comes into court here and files his plea, which said plea, being read, is as follows, to wit:

19 In the circuit court of the United States for the eastern district of Pennsylvania. In the third circuit. April sessions, 1888, No. 15.

JOHN WANAMAKER ET AL., TRADING, &C.,
vs.
CADWALADER, COLLECTOR.

And the said defendant, by John R. Read, esquire, his attorney, comes and defends the wrong and injury, when, &c., and saith that he did not undertake or promise in manner and form as the said plaintiff, John Wanamaker et al., above thereof, complained against him, and of this he puts himself upon the country.

JOHN R. READ,
Attorney for Defendant.

20 (Indorsed:) No. 15, April sessions, 1888, in the circuit court of the United States for the eastern district of Pennsylvania. In the third circuit. John Wanamaker et al., vs. John Cadwalader, collector. Plea of defendant. John R. Read, attorney for defendant. Filed May 1, 1888.

21 And afterwards, to wit, on the 3rd day of October, A. D. 1888, the plaintiffs, by their attorney, Edward L. Boden, esq., come into court here, leave of the court being first had and obtained, file an amendment of pleadings, which, being read, is as follows, to wit:

U. S. C. C. April term, 1888.

WANAMAKER
vs.
CADWALADER. } No. 15.

Plaintiff, by leave of the court, amends the pleadings and bill of particulars in the above case by withdrawing from the bill of particulars items—

Nos.	2.	Embroidered h'd'k'fs.	Invoice dated	Sept'r	30, '87,	203. 80
"	3.	" "	" "	Oct.	1, '87,	
"	5.	Philosophical instruments.	" "	Ap'l	26, '87,	93. 50
"	10.	Silk ribbons.	" "	Aug.	16, '87,	142. 20
"	12.	Ch'g's for carriage.	" "	Aug.	8, '87,	8. 40
"	13.	Scientific instruments.	" "	Oct.	28, '87,	2. 70
"	14.	Musical cigar-stands.	" "	Sep.	10, '87,	12. 60
"	15.	Albums.	" "	Sep.	26, '87,	60. 00

and claims to recover only upon the remaining items of the bill of particulars, as if they alone had been mentioned.

EDW. L. BODEN,
Att'y for Pl'ffs.

10, 3, '88.

22 (Endorsed:) 15. April T., 1888. U. S. C. C. Wanamaker vs. Cadwalader. Amendment of pleadings. Filed October 3, 1888. Bodin.

23 And thereupon it is ordered that a jury come to try the issue joined in this case.

And afterwards, on the day and year last aforesaid, came the parties aforesaid, and the jurors of the jury aforesaid being called likewise, come to wit:

1, Joshua D. K. Reinhart; 2, William H. Miller; 3, Valentine Trout; 4, James Peters; 5, Isaac H. Eyre; 6, Henry Arndt; 7, Samuel S. Kohn; 8, John Catherwood; 9, Simon Cardori; 10, John Sailer; 11, Francis B. Reeves; 12, Cyrinius W. Kutz; who are duly empanelled, retained, chosen, tried, and sworn or affirmed to speak the truth in the issue joined in this case.

And afterwards, to wit, on the 11th day of October, A. D. 1888, the jurors aforesaid, upon their oaths or affirmations aforesaid respectively, do say that they find for the plaintiffs on the claim for excess of duties on trimmings, and assess the damages at one hundred and forty-eight $\frac{19}{100}$ dollars, and that as to the claim for excess of duties on the mechanical musical trumpter, they find for the defendant.

24 And afterwards, to wit, on the 15th day of October, A. D. 1888, the defendant, by his attorney, John R. Read, esq., comes into court here and moves for new trial and files reasons in support thereof, which, being read, is as follows, to wit:

C. C. U. S. 15. April term, 1888.

WANAMAKER
vs.
CADWALADER, COLLECTOR, &C.

Motion and reasons for a new trial.

And now, to wit, October 15, 1888, the defendant, John Cadwalader, by his attorney, John R. Read, moves for a new trial, and assigns the following reasons therefor:

1. The learned judge erred in affirming the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, and fourteenth points submitted by the plaintiff.

2. The learned judge erred in declining the first, second, third, fourth, fifth, sixth, seventh, eighth, and twelfth points submitted by the defendant.

3. The verdict is against the evidence.

25 4. The verdict is against the weight of the evidence.

5. The verdict is against the law.

JOHN R. READ,
U. S. Attorney, Q. T. R.
JAMES M. BECK,
Ass't U. S. Att'y, Q. T. R.

(Endorsed:) U. S. C. C. April sess., 1888. No. 15. Wanamaker vs. Cadwalader, collector. Motion and reasons for a new trial. Filed October 15, 1888. John R. Read, per dep. Q. T. Reader.

26 And afterwards, to wit, on the day and year last aforesaid comes the parties aforesaid, by their attorneys aforesaid, and this case being called for argument on motion and reasons for a new trial, and having been argued by counsel for the respective parties, the court order judgment to be entered on the verdict in favor of the plaintiffs and against the defendant for the sum of one hundred and forty-eight $\frac{19}{100}$ dollars ($148.19). Whereupon judgment is entered accordingly.

27 In the circuit court of the United States for the eastern district of Pennsylvania. April sessions, 1888.

JOHN WANAMAKER, THOMAS B. WANAMAKER, and Robert C. Ogden, trading as John Wanamaker,
vs.
JOHN CADWALADER, COLLECTOR OF CUSTOMS for the district of Philadelphia.
} No. 15.

Bill of exceptions.

28 In the circuit court of the United States for the eastern district of Pennsylvania, of April sessions, 1888.

JOHN WANAMAKER, THOMAS B. WANAMAKER, and Robert C. Ogden, trading as John Wanamaker,
vs.
JOHN CADWALADER, COLLECTOR OF CUSTOMS for the district of Philadelphia.
} No. 15.

Be it remembered, that in the said term of April, A. D. 1888, came the said plaintiffs into the said court, and impleaded the said defendant in a certain plea of trespass on the case, &c., in which the said plaintiffs declared (prout narr.) and the defendant pleaded (prout pleas). And thereupon issue was joined between them.

And afterwards, to wit, at a session of said court, held at the district aforesaid before the honorable William McKennan, judge of the said court, on third, fourth, fifth, eighth, ninth, tenth, and eleventh days of October, A. D. 1888, the aforesaid issue between the said parties came to be tried by a jury of the said district for that purpose duly empannelled (prout list of jurors), at which day came as well the said plaintiffs as the said defendant, by their respective attorneys, and the jurors of the
29 jury aforesaid empannelled to try the said issue, being also called, came, and were then and there in due manner chosen and sworn or affirmed to try the said issue, and upon the trial the counsel of the said

plaintiffs, having opened the cause for the Government, offered the following testimony:

30 U. S. circuit court.

WANAMAKER
vs.
CADWALADER.

Before Hon. William McKennan, justice, and a jury.

PHILADELPHIA, *Wednesday, Oct.* 3, 1888.

For the plaintiff appeared Messrs. H. E. Tremaine, E. L. Boden, Mr. F. K. Pritchard, and Mr. Harry Kingston.

For the defendent appeared the U. S. attorney.

EDWARD J. COLLINS, sworn and examined.

By Mr. TREMAINE:

Q. Mr. Collins, you are in the custom-house?

A. Yes, sir.

Q. Have you produced the invoices, entries, protests, and appeals in this suit at the request of plaintiff's attorney?

A. Yes, sir.

Mr. TREMAINE. Do you care to have all those identified, Mr. Read?

31 The DISTRICT ATTTORNEY. I think they had better go in evidence formally, so that the record may be kept straight.

Q. Have you examined them in respect to protests and appeals, to see whether they are regular, according to the act of Congress?

A. I have.

Q. They have been seasonably protested upon and appealed?

A. Yes, sir.

Q. And the suit instituted in due season?

A. In due season; yes, sir.

HENRY A. FISHER, sworn and examined.

By Mr. TREMAINE:

Q. What is your business?

A. My present business is the foreign business of John Wanamaker & Co.; I was formerly silk examiner at the appraiser's stores.

Q. Are you familiar with the class of articles that are used for making or ornamenting hats, bonnets, and hoods?

A. Yes, sir.

32 Q. Is there a class of articles that have their chief use for millinery purposes or not?

A. There is.

Q. You are familiar with that class of articles?

A. Quite so.

Q. How long has your experience extended over that class of articles?

A. Thirty years.

Q. You know what millinery ribbons are?

A. I do.

Q. Well, what are millinery trimmings, generally?

A. Materials that enter into the manufacture of a hat—velvet, &c., and ribbons more particularly than anything else are specifically trimmings.

Q. Have you looked at the invoices in this case?

A. Yes; I am entirely familiar with them.

Q. I hand you a bundle of samples produced by the district attorney at our request, with a view of your examining them to ascertain whether they represent any of these importations, and, if so, please specify them.

A. (After examining samples.) I believe they all do. Three of them were taken by myself while I was appraiser in an official capacity. The other three were taken by my successor.

Mr. TREMAIN. Now, it will prove a convenience if we just take the numbers of those patterns and the importations to which they relate upon the record.

33 The DISTRICT ATTORNEY. If you will connect them with the invoice.

Mr. TREMAIN. Yes; I will do that.

The WITNESS. The first invoice is No. 3343, importation by the British Prince, February 25th. This is the appraiser's record on here.

Q. You will name first the steamer, then the date of entry, and then the name of the pattern and the number of the sample.

A. The British Prince. The date of the entry don't happen to be on here; the date of the invoice is.

Q. Give the invoice number.

A. The invoice number is 3343. The date of the entry is not here.

Q. The date of the invoice will answer. The first number is what?

A. 3343.

Q. And the pattern number?

A. Nos. 137, 133, and 164. There are three pattern numbers connected with that importation.

Q. Take the next one, please.

A. The Lord Clyde; date of invoice, February 15th, 1887; No. of entry, 3039; pattern numbers, 53, 110, and 131. The next is British Princess; date of invoice, March 4th, 1887; number of invoice, 3623; pattern numbers, 159 and 133. The next is British Prince; date of invoice, September 16th, 1887; number of entry, 12040; pattern numbers, 313, 233, 277, and 231. The next is British King; date of invoice,

34 September 2nd, 1887; number of entry, 11401; pattern numbers, 1321, 308, and 233. [Submitting sample.] There is a sample of the millinery. I don't know whether you wish that to enter or not.

Q. Leave that out; just the ribbons.

A. The Indiana, August 16th, 1887; number of entry, 10744; pattern numbers, 243, 231, 216, 306, and 233.

Q. Now, will you please make a calculation, or have it made so that you can answer this question either now or at some later time of the trial. State the amount of duty that would result from a calculation upon the goods represented by the pattern which you have described in the particular importations you have mentioned; whether in excess of 20% upon those invoices, and give the amount in a schedule.

A. I will do so, but it will take a little time to make that calculation.

Q. Let the other side examine it, and with the permission of the other side that answer will be suspended. Now in respect to the goods represented by those samples, will you please state whether they are or are not trimmings used for making or ornamenting hats?

A. They are sir; they are all bonnet ribbons, used for trimming hats and bonnets.

Q. Do you attend to the payment of duty upon these importations?

A. I do, sir; for Mr. Wanamaker.

35 Q. Upon which importations, represented by those samples, you paid duties at the rate of 50% ?

A. I did not pay the duties upon these. Some of them were passed while I was yet an examiner in the appraiser's office, and the others were passed before——

Q. (Interposing.) You have looked at the invoices. Does it appear by those invoices that duty was paid at the rate of 50% ?

A. Yes, sir.

Q. Now please look at the invoice by the Indiana, dated September 30th, 1887, which purports to relate to mechanical music trumpeter, and say whether you can produce that particular article.

A. Yes, sir; I believe it is in the building.

Q. Please have it produced.

A. Mr. Boden knows where it is.

Cross-examination by the DISTRICT ATTORNEY:

Q. How long have you been in the employ of the plaintiff?

A. Since the 1st of July, 1887.

Q. And I understand that prior to that time you were in the Government service.

A. I was.

36 Q. In what capacity?

A. As examiner of silk goods.

Q. How long had you been in the Government service?

A. Eleven years.

Q. What is a silk ribbon?

A. I couldn't define it better than that.

Q. Well, I have asked you what is a silk ribbon. Now, as I understand you, you can not define it any better that to say it is a silk ribbon; is that it?

A. No, sir; I can not.

Q. What is the difference between a silk ribbon and a hat trimming?

A. None that I know of, except there are some of the characters of silk ribbon that are used for the two; they are not hat ribbons.

Q. Then I understand you to say that there is no difference between a hat trimming and a silk ribbon; is that so?

A. I don't say that.

Q. Well, now, I thought you did. What did you say?

A. I say there is no difference between hat ribbons and some silk ribbons.

Q. Then I am to infer from what you say that some silk ribbons are used for hat ribbons; is that what you mean?

A. Yes, sir.

Q. If I were to walk into Mr. Wanamaker's store and ask for
37 a few yards of silk ribbon two inches wide, what would you give me?

A. Well, it would depend upon the person who waited on you.

Q. I don't want you to suppose that I would ask you, Mr. Fisher, but suppose I would walk to the silk counter or the ribbon counter and ask the young lady in charge there to give me two yards of silk ribbon two inches in width; what would she hand me?

(Question objected to.)

The COURT. Perhaps you had better ask the question what an employé of Wanamaker's would hand you, &c.

Q. (Submitting sample.) What is the commercial designation of this article?

A. That is a very hard question to answer, but I would say they were called bonnet ribbons.

Q. Wouldn't they be called by some persons simply ribbons?

A. No, sir; those are purely bonnet ribbons.

Q. That is, they are used for bonnet purposes?

A. Yes, sir.

Q. And I want to know whether they would not be commercially known as bonnet ribbons?

A. If a lady would ask for bonnet ribbons and wanted this, she would get it.

38 Q. Weren't they commercially known as ribbons in 1883?

A. In 1883, and many years back.

Q. Weren't they commercially known as ribbons?

A. That is half of their designation. They are commercially known as bonnet ribbons.

Q. Did you ever hear them denominated hat ribbons?

A. Very much, of late years.

Q. How late, 1883?

A. Ever since the duty has been in two classes.

Q. Since then they have been known as hat trimmings?

A. They are known as hat trimmings now.

Q. But at the time of the passing of this statute these articles were known as ribbons?

A. No, sir; they were generally known as hat ribbons and hat trimmings, and were for years.

Q. When were they first known as hat trimmings?

A. I couldn't go back far enough; but I am sure 25 years.

Q. Then this particular article was never known as a ribbon?

A. It would be known as a ribbon, but specially designated as a bonnet ribbon or hat ribbon.

39 Q. These bonnet ribbons, as you call them, are used for various purposes, are they not?

A. Not that kind.

Q. Are there any among those samples that are used for ribbons?

A. Not exclusively. They are known as bonnet ribbons.

Q. (Indicating.) Take that ribbon. Do you mean to say that that ribbon could not be used for any purpose?

A. No, sir; unless it was diverted from its proper use.

Q. Unless it was used by the person who bought it for a different purpose from that for which you bought it?

A. Not at all. That is its general use. It is manufactured for that purpose and generally sold for that purpose.

By the COURT:

Q. What is the chief use for which it is generally used?

A. Trimming hats and bonnets. There isn't any doubt about that. They are included in the whole class commercially known as ribbons, but those are specially bonnet ribbons.

By the DISTRICT ATTORNEY:

Q. What is the chief value of these articles, or the chief component parts?

A. Those two are silk. The two patterns are of silk and the chief value of the third pattern is silk. That is No. 3343.

Q. Now what about this invoice No. 3039?

A. That is all silk.

40 Q. And these others?

A. No. 3623 is all silk, and of the other the chief value is silk.

Q. Now No. 12040?

A. All silk.

Q. No. 11401?

A. All silk.

Q. I observe, Mr. Fisher, that this invoice 3623 was examined by you and you classified it as silk ribbon, did you not?

A. Yes, sir.

Q. That was when you were in the Government service?

A. I believe that is so. The record is on the invoice.

Q. Yes, it will show. (Submitting paper.) This is the invoice, is it not?

A. There is nothing on here.

Q. (Indicating.) Is that your handwriting?

A. That is my handwriting.

Q. And at that time you classified it as silk ribbon?

A. I did.

Q. And now you think it hat ribbon?

A. I classified it under the directions of the Treasury Department. I didn't think anything.

Q. Do you mean to say that you did not exercise any judgment in appraising imported articles when you were examiner?

A. That is not an appraisement, sir; it is a classification.

Q. Well, a classification.

41 A. We follow the directions of the Treasury Department; we have no judgment beyond that.

Q. Now, Mr. Fisher, I understand that you have some knowledge and experience as to what are the component parts of a lady's hat.

A. Yes, sir; some.

Q. And the fashions in that particular change from year to year; is not that so?

A. Yes, sir.

Q. And it does not always follow that because an article is a hat trimming one year it is a hat trimming the following year; that is so, is it not?

A. Well, I dont't know that I could answer that question affirmatively. I think a hat is a hat all the time. I think a hat would be a hat or bonnet whether it is on a lady's head or not.

Q. That is not an answer to my question. I asked you whether the fashions in regard to what are known as trimmings to hats do not change from year to year?

A. They vary, certainly. I do not think they ever go out of fashion.

Q. Of course I do not pretend to say that bonnets go out of fashion; but I mean to say that the component parts of bonnets vary from year to year.

A. Yes, sir.

Q. Will you be kind enough to tell me what you understand to be the component parts of a bonnet?

The COURT. I should think that is the hardest question you
42 have put to him yet.

The DISTRICT ATTORNEY. I am glad your honor thinks it is a hard question.

The COURT. Do you think that you could define that, Mr. Read?

The DISTRICT ATTORNEY. I wouldn't like your honor to ask me to answer all my own questions.

A. Well, I will try to answer it. I think they commence with either a bonnet frame or a frame of wire.

Q. Well, there are braids, and plaits, and flats, besides laces, tissues, willow sheets, squares, &c., are there not?

A. Yes, sir; they are component materials.

Q. Component parts of a bonnet, depending upon what kind of a bonnet is used?

A. Yes, sir.

Q. And then there are frames?

A. Yes, sir.

Q. Now what is a braid?

A. A braid is generally a plaiting of straw used to manufacture bonnets and hats?

Q. Now what is a plait?

A. That is something of the same character.

Mr. TREMAIN. One moment; of course excursions are only matters of time.

The DISTRICT ATTORNEY. This is not an excursion.

Mr. TREMAIN. If it is deemed proper to take every noun in
43 that list, we shall have a very large range of excursions, because we shall have to pursue every noun. Now there are about eight or ten nouns there—braids, plaits, flats, laces, tissues, trimmings, willow sheets, and squares. Now, if we have got to explore the trade meaning of every one of those nouns, we have considerable of an undertaking; and if it is deemed proper exploration, I submit for the consideration of the court at this stage of the case that it is certainly not a proper exploration of cross-examination.

The DISTRICT ATTORNEY. I want to ascertain from the witness, ac-

cording to his own knowledge, what are the necessary parts of a bonnet. I have a purpose I want to serve and that purpose I do not want to disclose, and it is absolutely necessary. There are other articles that are used in a bonnet that are mentioned in the tariff act. The contention on the part of the plaintiff is, as I understand it, that anything that is imported the chief use of which is to go into and enter into the making of a bonnet, that necessarily comes within the purview of section M of that part of the Revised Statutes. The contention of the Government is just the reverse.

Mr. TREMAIN. We do not contend quite so far. We say that
44 it belongs to the class of articles adequately described by the term trimmings. Now that term is all the term we have given any evidence about.

The DISTRICT ATTORNEY. As I understood from your opening, Mr Tremain, you spoke of millinery trimmings. Now there is no such word as millinery trimmings in the act at all.

Mr. TREMAIN. I used that as a short phrase instead of using the language of the statute, "used for making or ornamenting hats." We propose to prove that things that are used for making or ornamenting hats, bonnets, and hoods are described briefly in short and popular language and in commercial usage under the general term millinery. But that is not essential. That is only a circumstance that we will give in evidence to aid the jury; but the main contention about the leading noun in the paragraph is about the plural noun "trimmings." We do not propose to give any evidence about any other noun except the noun "trimmings."

The COURT. These are specific articles and their designation, as this court decided and as the Supreme Court still better has determined it, is determinable by the use to which they are generally applied.

The DISTRICT ATTORNEY. I would like to be heard on that question. I do not understand that the Supreme Court has decided that.

45 The COURT. This court has decided that, I know.

The DISTRICT ATTORNEY. If you will permit me to read from Judge Matthews' opinion, I think you will see there is some ground for my statement. I will read the first clause and syllabus and then refer you to the clause to which I refer. (The district attorney read at some length from the opinion referred to.)

The COURT. Is there any question here that these are ribbons?

The DISTRICT ATTORNEY. There is no question on the part of the Government but what these are ribbons and an article of which silk forms the chief component part.

The COURT. Then the question is whether they are ribbons of a particular kind used, and that is to be ascertained with reference to the use to which they are applied.

The DISTRICT ATTORNEY. The contention of the Government is that these ribbons come under the section of the Revised Statutes (quoting clause), and it is claimed by the Government and will be argued, and I have no doubt, if your honor please, that I will have a number of witnesses to show that these particular articles have always been known as silk ribbons. It is only within the last two or three years, since the statute of 1883 passed, that an effort has been made to call them millinery ribbons and hat trimmings, so that they can be brought in under the section of the statute which imposes a duty of only 20 per cent.

46 The COURT. I understand that.

The DISTRICT ATTORNEY. As I understand the contention of my friend, it is just the other way—that it is known as a hat trimming. I do not understand that the Supreme Court said that in that decision, nor do I understand that your honor said that in the charge to the jury. I understood, your honor, it being conceded by both sides that the article in question was known to the trade as trimming, that the question for the jury to determine then, they being guided by the evidence, was as to what was the predominant use——

The COURT (interposing). That was just the question in that case. No doubt they were. But the question was whether they were hat trimmings or not, and the evidence was all on that point. But here there is no doubt they are ribbons, but the question is, what kind of ribbons.

The DISTRICT ATTORNEY. The contention of the Government is that they are silk ribbons. They have always been commercially known as silk ribbons.

The COURT. That is very proper on your part: but still, are they only known as ribbons of that description, or are they distinctly know as hat-ribbons?

47 The DISTRICT ATTORNEY. Well, sir, I am prepared to show, and I think I will be able to do it to the satisfaction of the jury, that these articles are imported as ribbons, that they are sold as ribbons, and that they have been known commercially as ribbons for years and years, and never known as anything else.

The COURT. That is a very proper course, and that is the narrow issue here.

The DISTRICT ATTORNEY. That is the narrow issue, and I shall claim that we are not necessarily affected by the predominant use of the article.

The COURT. As to that I can not agree with you.

Mr. TREMAINE. My learned friend has forgotten to mention that in the Langfeld case there were millinery velvets and millinery plushes and velvet ribbons, three articles, submitted to the jury. Now, there were two classes of such articles—those which were used for trimming and those which were not. Now, so far as the millinery plushes and millinery velvets were concerned, they were all trimmings. Now, what kind of trimmings were they? In this case we are not going to raise any issue with my friend that these are not ribbons.

The COURT. It would not be of much use; the jury and the court both have eyes.

Mr. TREMAINE. All ribbons are trimmings, we say. Now, what
48 kind of trimmings are these? We say that these are the kind of trimmings that are ordinarily distinguished as millinery trimmings. Now, we object to the braids.

The DISTRICT ATTORNEY. As I understand my friend, he objects to my asking the witness the meaning of a word. I will withdraw the question.

Q. (Resuming.) Now, I would like to know as a matter of fact whether the commercial type of those three ribbons is not a fancy ribbon—pattern 233, 277, and 231; is not that known as a mohair ribbon, and is not that its title?

A. I think not. There is no mohair in it.

Q. Is it not called a moire ribbon?

A. Yes, sir; that is the French word for watered.
Q. Is it not called a watered ribbon?
A. Yes, sir.
Q. Known as such?
A. I wouldn't say——
Q. (Interposing). As a matter of fact, you have had some experience in this business. Is not that kind of ribbon bought and sold as a watered ribbon or moire ribbon?
A. I think it is specially; yes.
Q. That is the special designation for that kind of ribbon?

49 A. For the particular feature. It is so woven as to represent the sheen of water [indicating]. This you would call a velvet-edged ribbon.

Q. A fancy ribbon?
A. I do not accept the term fancy; the other is better.
Q. A velvet-edged ribbon?
A. A velvet-edged watered ribbon. But that is a special term for that ribbon.
Q. But that is what it is called?
A. Not commercially. They are commercially known as bonnet ribbons.
Q. Then you take issue with me as to the title of these two ribbons?
A. As to the commercial designation. I say that is a watered ribbon. Of course in specially designating that it would be called a moire ribbon or a watered ribbon.
Q. Did you ever buy and sell ribbons?
A. No.
Q. What experience have you had?
A. As a manufacturer of ribbons for seven years.
Q. When?
A. From 1865 to 1872.
Q. Not since then?
A. No. In 1876 I went into the appraiser's stores.
Q. They were usually invoiced as ribbons during your experience as an appraiser?
A. Yes, sir.
Q. Simply ribbons?
A. Yes, sir. They might be described as millinery ribbons.

Q. Sometimes fancy ribbons and sometimes watered ribbons?

50 A. Yes, sir; sometimes fancy ribbons and sometimes moire or watered ribbons.

Q. But generally ribbons?
A. Generally ribbons. That is the general title.
Q. Pattern 216 is called a glacé ribbon, is it not?
A. Yes. sir; that is the description of the effect.
Q. (Indicating.) And that is called a grossgrain ribbon, is it not?
A. Well, I couldn't tell you whether that is grossgrain or fine ribbon. Grossgrain is generally a very thick grain. That is a description. That is beyond me. We go into component materials in the appraiser's office. Since then I have had very little experience in these ribbons.
Q. (Indicating.) That is called satin finish, is it not?

A. Yes, pattern 243 is known as grossgrain and satin finish. I do not know specially the finer designations of the grains at present.

Q. Now, Mr. Fisher, I understand that you are in the employ of the plaintiff.

A. Yes, sir.

Q. You have a bonnet department in your store, have you not?

A. No, sir; they have a millinery department.

Q. A millinery department?

A. Generally.

Q. And they also have a ribbon department, haven't they?

A. No, sir.

51 Q. Are you quite sure of that?

A. Positive.

Q. Any silk department?

A They have a silk department.

Q. Haven't they any ribbons in the silk department?

A. No, sir.

Q. All your ribbons, then, are kept in the fancy department?

A. They are all kept in the millinery department; that is all I know; that is the only department they are sold in.

Q. You are quite sure of that, are you?

A. Yes, sir; as far as my knowledge is concerned. I don't know.

Re-direct examination by Mr. TREMAINE:

Q. I understood you to say that when you were the examiner the department ordered you to pass these at 50%?

A. Yes, sir.

Q. That you did not exercise your own judgment?

A. No, sir. The appraiser is the judge of value; the collector is generally judge of classification, and we follow the orders, through him, of the department.

Q. At that time is it not true that the appraisers were not permitted to classify any millinery ribbons at 20%, but only men's ribbons?

A. At that time. But six months prior to that——

52 Q. (Interposing.) No matter about the other times. At that time that was so, wasn't it.

A. Yes, sir.

Q. As to the term "millinery ribbons," to which your attention has been called, do you remember that in official correspondence or in trade usage years and years ago?

A. Yes, sir.

Q. Are the particular names you have referred to descriptive of particular ribbons?

A. They are entirely descriptive of particular kinds of ribbons.

Q. These samples represent a variety of colors, widths, and qualities, do they not?

A. Yes; and styles.

Q. When you speak of a grosgrain ribbon, is it or is it not true that there are grosgrain ribbons that are trimmings for bonnets and grosgrain ribbons that are not trimmings for bonnets?

A. That is true.

Q. There are ribbons for trimming many other things besides bonnets, are there not?

A. There are.

Q. Well, is it or is it not true that there is a very large variety of articles that are recognized as merchantable commodities by the general description of trimmings?

A. A very large.

Q. Is ribbons always within or without that description; are ribbons trimmings?

A. They are always within that description in a general way.

Q. Now, is it possible for any one man at will to command by
53 memory the names by which all varieties of ribbons are in fact distinguished?

A. I think not. Every new season has a new catalogue.

Q. Do you suppose you could name a dozen?

A. I could not.

Q. There are men who can?

A. Oh, yes; some of the clerks.

Recross-examination by the DISTRICT ATTORNEY:

Q. Mr. Fisher, where is the bonnet department in Wanamaker's stores?

A. At the corner of 13th and Chestnut.

Q. Is that where the bonnets are sold?

A. At the corner.

Q. And where is what you call your trimmings department?

A. That is connected with it, on the main aisle.

Q. When you say connected with it, what do you mean?

A. I mean it is a part of that department.

Q. You mean it is adjoining it?

A. No, sir; it is in it.

Q. What is the department called?

A. Well, it has a number; I forget the number. The head of that department is subpœnaed here, and he can answer those questions better than I can. But it is called the millinery department, and it is known as such, and the hats are on one side and the bonnets on the other.
54 It is next to the main aisle, and runs for 75 feet there.

Q. How long have you been of the opinion that silk ribbons were hat ribbons, technically?

A. I think four years back; ever since the question has been in dispute.

Q. Is there anything in the width of the ribbons that distinguishes dress trimmings from bonnet trimmings?

A. Yes, sir.

Q. What is it?

A. A wide ribbon, six, or eight, or ten inches wide, would be a sash ribbon, worn around a lady's waist.

Q. How wide did you say?

A. Six, or eight, or ten inches, according to the fashion prevalent at the season. Sometimes they are very wide—12 inches wide. They are worn around ladies' waists. Those are known as sash ribbons.

Q. If you take a ribbon of a less width than six inches, is there anything which distinguishes its use for a hat or a dress? Of course I know that a very broad ribbon would be used for a sash.

A. Yes, sir.

Q. What I mean to say is, when you come to a less width is there anything which distinguishes that?

A. Generally its quality and character. All dress ribbons generally used are of a low grade of ribbon.

Q. That depends a good deal on the purse of the purchaser, don't it?

A. Well, very often. But these particular bonnet ribbons are
55 made very fine. There is but a small quantity used, and they are made very fine.

Q. Did I understand you to say but a small quantity were used?

A. A smaller quantity are used on bonnets than on dresses. It would take only one or two pieces to trim it.

Q. Is there anything in the color of the ribbon that would distinguish a hat trimming from a dress trimming?

A. That is a hard question to answer. Perhaps there is.

Q. I do not want perhaps; I want either yes or no.

A. In my judgment there is. A bonnet ribbon is of a delicate tinge. They are much more diversified than dress trimmings.

Q. Does not the trimming of a hat depend to a great extent upon the trimming of the dress?

A. That I can not say.

Mr. TREMAINE. Do you mean as an article of merchandise?

Q. Well, as an article of merchandise?

A. I can not answer that question. The millinery man can answer that better than I can.

Q. When a person comes to your silk ribbon counter in that arcade, right beside the chief entrance in Wanamaker's great depot, you do not ask them for what purpose they want it, do you?

A. No, sir.

Q. They are used for various purposes, are they not?

A. Yes, sir.

Q. Used for jewelery boxes?

A. I believe so.

56 Q. Used for trimming dresses, fancy work, and various other purposes; and you do not question the purchaser what he wants it for, or what she wants it for, to be more accurate?

A. I do not think they do.

Q. And you do not know the relative uses to which it is put, as to whether it is more to put on a dress than as trimming for a hat?

The WITNESS. Personally?

The DISTRICT ATTORNEY. Yes.

A. No; I never asked about it and I don't know anything about it.

Q. Now, in your hat department, to which allusion was made before, is it not a fact in a counter that is part of that hat department there are uncompleted hats and there are bird's feathers, artificial flowers, trimmings, but not silk ribbons?

A. They are all in the millinery ribbon department.

Q. And the silk ribbons are on a separate aisle, apart from the unfinished bonnets, are they not?

A. They are not. The unfinished bonnets are on one side and the finished on the other.

By Mr. TREMAINE:

Q. There is a finished bonnet in one of these invoices, is there not?

A. I think so; I haven't looked at it.

57 CHARLES TRACY, sworn and examined.

By Mr. TREMAINE:

Q. You are in the employ of Wanamaker and Company?

A. Yes, sir.

Q. Will you please look at the invoice by the Indiana and say whether you can identify an article mentioned in that invoice as a mechanical musical trumpeter?

A. Yes; I think I could.

Q. Please produce it. (Figure produced and placed in witness chair.) Is that the article of importation?

A. Well, to the best of my knowledge.

Q. You were instructed to bring it here as being the article imported?

A. Yes, sir.

Mr. TREMAINE. I will read the invoice: "One case containing musical mechanical trumpeter," classified by the appraiser as a toy at 35 %. Is that the article, Mr. Fisher?

Mr. FISHER. Yes, sir.

Q. Now, does that produce musical sounds?

A. Well, to the best of my knowledge it does.

58 Q. Will you please produce them; let the thing sound a musical sound?

(At this point the witness wound up the figure and the figure gave forth an imitation of a bugle call.)

Q. Is that a succession of bugle calls?

A. Well, as far as I know.

The DISTRICT ATTORNEY. If you have had any experience I shall not object.

Q. Can you tell whether those are musical sounds?

The DISTRICT ATTORNEY. "Musical" is a technical word. We object to the witness passing upon the question without he is a musician. I suppose the jury can do that. We doubt whether he is a musician. We would call that noise.

Mr. TREMAINE. I won't press it.

Q. (Resuming.) Did the thing have an accident or is it all in reasonable order?

A. Well, I don't know about that. I think it is in perfect order as far as I know. I am not positive whether it is or not.

Q. Will you please exhibit the mechanism of that affair.

A. Yes, sir.

59 (At this point the witness unbuttoned the coat of the figure, withdrew a quantity of cotton batting, and exposed the interior of the figure.)

Q. Now, please explain what produces the succession of sounds which have just been heard?

A. Well, as far as I am versed in music, I see there is a cylinder there, the same as in a music-box, something on the same principle, which opens the valves in the pipes.

Q. How many pipes are there, or about how many?
A. Five or six; I think there are six pipes there—five pipes.
Q. Each pipe has a number of stops?
A. Well, that is something I can't tell you.
Q. Can you tell about how many notes of the gamut it sounds?
A. No, sir.
Q. What is the purpose of that as a commodity?
A. Well, really, I couldn't tell you. I wasn't sent here as an expert. I was sent here to show the figure, open it, and wind it up.
Mr. TREMAINE. We offer that sample in evidence, which speaks for itself.

60 Cross-examination by the DISTRICT ATTORNEY:

Q. I understood you to say you were in the employ of John Wanamaker?
A. Yes, sir.
Q. In what department of John Wanamaker's store are you employed?
A. The musical department.
Q. Are you connected at all with the articles in the toy department?
A. Yes, sir.
Q. Have you not in your toy department articles that produce artificial sounds, as this figure does, that you class as toys?
A. Well, I am not well enough versed in the business to know; I am not long enough in the business to know that. I attend to my own part, and I really haven't got time to run around to other people's counters.
Q. You said you were connected with the articles in the toy department?
A. Well, some.
Q. Don't you know, as a matter of fact, that there are articles in the toy department that produce articles of sound liks dogs?
A. Why, this is in the toy department—the music counter. At the music counter there are violins, cornets, music-boxes, banjos, guitars, accordeons, and most every musical arrangement.

Q. Then I understand that Mr. Wanamaker classes them as toys
61 primarily?
A. No, sir.
Q. You say you are in the toy department?
A. No; I am at one side of the toy department.
Q. Didn't you say a moment ago that this was in the toy department?
A. It is in the musical department. They are all on the same floor.
Q. They are all in the same department under different subdivisions?
A. Yes, sir.
Q. Speaking from your experience, is the primary object of that figure to give music or to amuse by its mechanical action?
A. Well, I should think it was to give music; to give those calls.
Q. You think the music is more entertaining than the amusement which the automaton gives as an automaton?
A. I can't say that. I think it is meant for an amusing figure, as far as my knowledge goes. I am not an expert.
Q. Is it not the case that it was bought by Mr. Wanamaker not to entertain the musicians of this city, but to please the children?

A. No, sir; I don't suppose it is put up there in the store to please the children. I shouldn't think so.

Q. Which do you think from your experience in that department would be the most likely to be entertained—musicians or children?

Mr. TREMAIN. That is not of any consequence.

62 The DISTRICT ATTORNEY. I think it is.

A. You are getting beyond my experience.

Q. Which do you think it would be?

A. I think if a professor came in there he would be amused himself.

Q. You have said that this figure plays three or four tunes?

A. Calls.

Q. Calls; yes. I just want to ask you, you don't call these bugle calls, in any proper sense of the word, tunes, do you?

A. No, sir; I couldn't tell you as to that. I play a few instruments; most any instrument by ear.

Q. Your toy department is very extensive, isn't it?

A. Well, yes; it is a pretty large place.

Q. You have mechanical toys of all descriptions about Christmas, haven't you?

A. I believe they have.

Q. Large-sized cats and dogs?

A. I believe they have.

Q. And babies. And they all imitate the animal which they are supposed to be, do they not—cry like a baby, mew like a cat, and bark like a dog?

A. That is something I couldn't tell you.

Q. Haven't you seen them?

A. I have enough to do to attend to my own business.

Q. You don't know?

A. I am on my oath; I don't know.

Q. Do any of them?

A. I saw a cat which would work its tail.

63 Q. And mew like a cat?

A. Yes, sir.

Q. You didn't call that a musical instrument, did you?

A. No, sir.

Q. You have seen those things that cry like children?

A. Yes, sir.

Q. Do you call those musical instruments?

A. No, sir.

Q. And you have seen figures that bark like a dog?

A. I couldn't say.

Q. You have seen them at Schwartz's?

A. I have been to Schwartz's but once or twice lately. I didn't see the figures.

Q. Do I understand that you really claim that to be a musical instrument?

A. Yes; to my knowledge.

Q. You don't know anything about music, do you?

A. I can play a great many instruments by ear.

Q. Not by note?

A. No, sir.

Q. What, according to your opinion, is the commercial designation of the word doll?

Mr. TREMAIN. That I object to.

The DISTRICT ATTORNEY. Question withdrawn.

64 WILLIAM P. HUTTON, sworn and examined.

By Mr. TREMAIN:

Q. You are with Wanamaker & Co., are you not?

A. I am, sir.

Q. Will you please state what department, if any, you have charge of?

A. The millinery department.

Q. Have you been familiar with millinery articles as commodities for many years?

A. I have, sir.

Q. Is there a class of commodities that are distinguished as millinery trimmings?

A. There is.

Q. Is that a very large class of articles?

A. Yes, sir.

Q. Now, what do you mean, or what is ordinarily meant, by millinery trimmings?

A. Anything that pertains to the trimming of a hat or a bonnet.

Q. Are you familiar with the class of articles that have their value as commodities among merchants which are trimmings used for making and ornamenting hats, bonnets, and hoods?

A. Well, in a measure, because the field is so large that we do not touch it at all points.

65 Q. Do all millinery commodities belong to that class?

A. They do.

Q. And many others also?

A. Naturally.

Q. What are some of the articles that are commodities among merchants—I mean staple commodities which have long had their use as trimmings, chiefly used for making or ornamenting hats?

A. There are ribbons, velvets, silks, and trimmings of various kinds which it is difficult to enumerate, because the season regulates that; flowers, feathers, and miscellaneous small articles. Just as I said, it would be impossible to designate them.

Q. Laces?

A. Yes.

Q. Tissues?

A. Tissues.

Q. Gauzes?

A. Gauzes, flowers. It is just a question of the taste of the purchaser.

Q. Now, there are some classes of all of those articles which you have named which are in fact not used for trimming hats, are there not?

A. Oh, yes; all of them.

Q. There are velvets and ribbons and laces and plushes that are not millinery trimmings, are there not?

A. There are, sir; yes, sir.

66 Q. How long have you been familiar with the term, if at all, of millinery ribbons, to distinguish that class of ribbons from other ribbons?

A. In a general sense; we have used them as millinery ribbons. We purchase them as millinery ribbons and sell them as such.

Q. Is there a commodity which has for a great many years, or at all events during your experience, been known in the trade—millinery ribbons; are they commodities which during your experience have been known in the trade?

A. They always have been known as millinery ribbons.

Q. There always have been such commodities?

A. There always have been millinery ribbons.

Q. Can a merchant of experience distinguish ribbons which are millinery trimmings, from ribbons which are not millinery trimmings, from time to time?

A. From time to time, yes, sir.

Q. The class of ribbons which are millinery trimmings varies from year to year, does it not?

A. It does, sir.

Q. Well, is it or is it not true that their value as commodities depends upon their use for any particular purpose?

A. It does.

Q. Has there ever been a time within your commercial experience when there have not been merchantable commodities that were valuable as commodities because of their distinguishing characteristics——

A. I don't quite——

67 Q. (Interposing.) I ask, has there ever been a time in your experience when there were not merchantable commodities that had their value because of their distinguishing characteristic for millinery purposes?

A. I don' think I can answer that question.

A. Do you know the time when there have not been millinery ribbons that were used for trimming hats?

A. No; I do not.

Q. Can you tell by looking at samples of ribbon which purport to have been articles of merchandise in the year 1887, whether their predominant use was for millinery purposes or not?

A. I can, sir.

Q. Now, please look at the samples in this case and state whether they are millinery ribbons or not.

The DISTRICT ATTORNEY. If the court please, before the witness answers that question, I desire to object to it on this ground: That as it has been in evidence that these ribbons fluctuate in their uses, namely, that what is a millinery ribbon one year is not millinery ribbon next year, and as the only question of importance is what Congress intended to describe as trimmings in 1883, that therefore the ribbons that might have been called millinery ribbons in 1887 is not material to this question.

68 The COURT. I have not understood that proof to be conclusive. The fashion changes, but not the character of the article.

The DISTRICT ATTORNEY. It is quite material that they fluctuate in their uses from year to year. Quite independent of that, it seems to me the inquiry ought to be limited to the act of Congress of 1883.

Mr. TREMAIN. That is not when the term was first used. We will have to go back to 1840. This term finds itself in the Tariff Act, a great many years ago.

The DISTRICT ATTORNEY. Your inquiry is directed to this statute now.

Mr. TREMAIN. My inquiry is not directed to that subject. My inquiry is directed to the class of articles known and recognized among merchants as trimmings. We want to know whether these came under that class. These were imported in 1887.

The DISTRICT ATTORNEY. The point of my objection is this: That ribbons that might have been called millinery ribbons in 1887 were not called millinery ribons in 1883; that when Congress passed that act the word "trimmings" for the making and ornamenting of hats had a special meaning, and its meaning would not be applicable to articles that might be called "millinery ribbons" in the year 1887, and that therefore
69 the question is foreign to the present inquiry.

The COURT. It is proper for the jury to hear the evidence.

The DISTRICT ATTORNEY. I take an exception, if your honor pleases.

Q. (Repeated.)

The COURT. You mean, so known and understood.

Mr. TREMAIN. Yes, sir.

A. They are all millinery ribbons.

Q. Is that what they trim hats with?

A. That is what they trim hats with; it is the purpose for which they are bought.

Q. Now, how many hats have you trimmed up at present, for example?

A. We have upwards of a thousand.

Q. What proportion of them are trimmed without ribbons?

A. That is almost a difficult question to answer, it is so small—nine-tenths. No feature of millinery is complete to-day without it.

Q. Nine-tenths are trimmed with ribbon?

A. Yes, sir; fully.

Q. Are not ribbons the chief trimmings that are used for millinery purposes?

A. Unquestionably.

Q. How long has that been so?

A. It has been so for at least four years past.

70 Q. For how long before that?

A. At all times. We have used them more or less always; they are the component part of millinery.

Q. They have always been used for trimming bonnets, haven't they?

A. Always.

Q. As long as you can remember?

A. Yes, sir.

Q. And your experience extends over millinery articles how long?

A. For over twenty years.

Q. Are those chiefly used for hats?

A. Hats and bonnets; yes.

Q. Can you identify some of the hats that came in these importations or that are trimmed with ribbons of that kind?

A. Yes.

Q. Have you any such things here?
A. Yes.
Q. Please mark them so that we can identify them.
A. (After looking over samples and marking some.) I have them here.
Q. Well, call the patterns off.
A. Pattern 231.
The DISTRICT ATTORNEY. Of what?
Mr. TREMAIN. He is going to produce a hat trimmed with a ribbons of that character. It is only for the purpose of identification.
Q. Read all the rest.
A. Pattern 133.
71 Q. What else?
A. Patterns 306 and 308.
Q. Well, produce samples of hats trimmed with trimmings of that character.
The DISTRICT ATTORNEY. I do not see how this is material. I do not deny but what these ribbons are used for trimmings, and of what purpose is it introducing hats trimmed with ribbon? I may introduce a dress trimmed with ribbons. It don't seem to me to be pertinent. That is all that my friend proposes to show.
The COURT. It only tends to show the issue.
The DISTRICT ATTORNEY. It is not denied at all what ribbons are used to trim hats. The question is whether they are commercially known as trimmings under the act.
Mr. TREMAIN. These are taken from stock—simply exhibits.
The COURT. It is not necessary; the concession is made by the district attorney.
Mr. TREMAIN. We withdraw the question, then.
Mr. TREMAIN. I understand that these ribbins are sometimes used to trim hats.
Mr. TREMAIN. That is all.

72 Cross-examination by the DISTRICT ATTORNEY:

Q. How long have you been in the employ of Mr. Wanamaker?
A. Four years and a half.
Q. And you have charge, I understand, of the millinery department?
A. I have, sir.
Q. What is the exact province of the millinery department?
A. In what respect do you mean?
Q. I mean to say that you don't buy the ribbons you trim hats with, do you?
A. I do, sir.
Q. Doesn't your foreign buyer buy them?
A. He purchases some of them, sir.
Q. He purchases them and turns them over to your department?
A. Some of them.
Q. You trim the hats and sell hats exclusively, do you not?
A. Yes, sir.
Q. You have nothing to do with the dress department of John Wanamaker?
A. Not anything.

Q. And you have always been exclusively in the millinery business?
A. Yes, sir.
73 Q. So that your experience is derived from the fact that your business has only called what is used as hat trimmings to your attention?
A. Not necessarily.
Q. Why not?
A. Because I have a large department of ribbons all by myself.
Q. What I mean is, your experience as a business man has been directed to the use of these ribbons for the trimming of hats?
A. Yes, sir.
Q. You have had no occasion to look beyond that and see for what other purposes they might be used?
A. Of course I know the character of ribbons there could not be used for any other purpose.
Q. You say they could not be?
A. They could not be, in good taste.
Q. Do you undertake to say they are not used for other purposes?
A. This character of ribbon?
Q. Do you mean to say that those ribbons could not be used for the purpose of trimming dresses?
A. They could be used for almost any purpose.
Q. But do you mean to say they are not used?
A. They are used, but it is a question of taste.
Q. But I only am asking as to whether or not those trimmings are not used for other purposes than the trimmings of hats.
74 A. Ribbons could be used for other purposes.
Q. And your attention naturally has been directed solely to its uses as trimming for hats and bonnets?
A. Exactly.
Q. Now when these ribbons were imported and brought into this country, were they put upon the ribbon counter?
A. Not at first.
Q. What was done with them?
A. They were put into the trimming department.
Q. Are not such of them as are unsold in the ribbon counter?
A. They are.
Q. And you sell these ribbons to any purchaser who comes and chooses to buy?
A. We do.
Q. And you do not ask for what purpose they want them?
A. No, but they naturally say they want ribbon for such and such a purpose.
Q. Are you at the ribbon counter?
A. No, sir.
Q. So you don't know of your own knowledge; all you know is, that Mr. Wanamaker at his ribbon counter sells a quantity of ribbons?
A. Yes, sir.
Q. And you don't know for what purpose they are sold?
A. I know what they are used for.
Q. You know in your own line of business, but you don't know for

what purpose these ribbons are bought at Mr. Wanamaker's main depot, do you?

A. No, sir.

75 Q. Now the ribbons that are called millinery ribbons this year were not called millinery ribbons in 1883, were they?

A. Well, that doesn't follow. Ribbons change in character, but still they are millinery ribbons, nevertheless, whether they vary in style.

Q. They change in character and color and width from year to year, according to the varying demands of fashion?

A. They do.

Q. They are not even the same in any one part of the country?

A. Well, it ought to be the same.

Q. I say in point of fact, what would be considered as proper millinery ribbons this year in Philadelphia might not be considered so in New Orleans?

A. There is no reason why it should not be.

Q. Isn't it so that fashions vary all over the country?

A. Not to such an extent as to change the whole character of the ribbons. It would be a millinery ribbon here the same as in New Orleans, for they would take one design; they wouldn't change it at all. It is still millinery ribbon.

Q. Now, I understood you to say before that you don't know of your own knowledge how they are bought, for the reason that you do not buy; the foreign buyer buys those articles?

A. Buys those articles.

76 Q. And as to the way they are sold, all you know is that to a certain extent the ribbons are used as trimmings on hats?

A. They are bought and sold for that purpose. If they are used for other purposes, that is without our jurisdiction.

Q. It is within the line of your business to know that they are used in the trimming of hats?

A. It is.

Q. But you do not undertake to say that as ribbons on your ribbon counter they are sold exclusively for millinery purposes?

A. No, sir; I can't say possibly.

Q. Do you recall the fashions in the matter of trimming hats about the year 1883?

A. It is a pretty difficult thing to do, sir; other than the fact of the general trimming we used.

Q. It would be an unfair question to ask you to tell the exact colors and width of ribbons. I did not mean that. What I mean to ask was, is it not the fact that in the year 1883, and in the two or three years succeeding, velvets were almost entirely used in the making and trimming of hats?

A. No, sir; they formed a very large proportion of the trimming, but not to such an extent that it excluded ribbons altogether. Ribbons were a feature, distinctly, of the trimmings.

Q. Now, I understood you a little while ago to say in your examination-in-chief that you knew that these trimmings were millinery trim-

77 mings by reason of peculiarities of texture and color and fineness. Now, is it not a fact that these ribbons vary in their quality and

texture, and color, according to the taste and the financial resources of th purchaser; I mean to say, a poor person would buy an indifferent ribbon, while a wealthy person would buy a more expensive ribbon?

A. Yes, sir.

Q. So that, in point of fact, there is nothing in the quality of the ribbon that makes it peculiarly millinery ribbon as distinguished from dress?

A. There is.

Q. What is there?

A. In the finer class of French ribbons there is a distinguishing quality. It is distinctly a millinery ribbon.

Q. Are any of these ribbons French ribbons, the class that you name as particularly and peculiarly millinery ribbons?

A. The character of ribbon I mean is very fine faille.

Q. And that is the only class that you recall now; that by reason of its fineness is commercially known as millinery ribbon?

A. No, not necessarily.

Q. What others?

A. That is purely a question that rests with the purchaser as to what character of ribbon they will use for millinery purposes. That is something we can't altogether control.

Q. Do you know whether these particular samples are French ribbons, of your own knowledge?

78 A. Those are all French ribbons. They have the general characteristics of the French ribbon. Ribbons are made also in Switzerland somewhat of the same character, although they are inferior in quality.

Q. How do you know that?

A. I can tell by the article itself.

Q. Are not ribbons of that quality made in this country?

A. Yes, there are.

Q. How do you know that they are not American ribbons?

A. Of my own knowledge I can't say.

Q. You don't know of your own knowledge that they are French ribbons?

A. I say the character of those ribbons is French.

By the COURT:

Q. You are expressing your judgment on your experience growing out of your handling of the goods?

A. Yes, sir.

Redirect examination by Mr. TREMAIN:

Q. I understood you to say that merchants can tell what commodities are millinery ribbons and what are not?

A. Yes, sir.

Q. And that that has always been so?

A. Always been so.

79 FRANCIS F. LAMBLEY, sworn and examined.

By Mr. TREMAIN:

Q. Are you a merchant?

A. I am not, sir; I am in the employ of Marks Brothers.

Q. Have you had mercantile employment?
A. I have.
Q. Where?
Q. In New York City; Syracuse, N. Y.; New Haven, Conn.; and for a short time only in this city.
Q. Marks Brothers are in this city?
A. They are.
Q. Where?
A. On Chestnut St.
Q. Are you familiar with millinery commodities?
A. I am.
Q. Have you any particular relation to that business now?
A. Yes, sir; I am buying that line of goods now.
Q. At wholesale?
A. I am buying for the house of Marks Brothers.
Q. At wholesale?
A. Yes, sir.
Q. Are you familiar with the commodities which have been known among merchants at wholesale for a great many years as trimmings used for making or ornamenting hats, bonnets, and hoods?
A. I am.
Q. Do you know what trimmings are?
A. I do.
80 Q. Have there always been a class of commodities distinguished in trade as millinery trimmings?
A. Yes, as far as I can remember, there always has been.
Q. That is, it has always been so during your experience?
A. Yes, sir.
Q. And that has covered about how many years in all?
A. About 19 or 20, perhaps.
Q. Now, just tell the jury what class of commodities are distinguished in trade as millinery trimmings.
A. It is a class of commodities that varies from season to season. It depends very much upon the prevailing fashion at the time. It is really anything that is used in trimming a hat or bonnet.
Q. What have always been the staple commodities that constitute millinery trimmings?
The WITNESS. For trimming hats and bonnets?
Mr. TREMAIN. Yes.
A. I should say flowers, feathers, ribbons, silks, velvets, plushes have been staple commodities.
Q. Well, there are flowers and feathers and ribbons and velvets which are not of a millinery character, are there not—which are not used for trimming hats and bonnets, I mean?
A. Oh, yes; there are.
81 Q. Can gentlemen of experience in the trade tell by looking at samples of ribbon whether or not they are millinery trimmings?
A. Well, I should say they should be able to tell whether they were manufactured for the purpose of millinery trimmmings or for some other purpose.

Q. Is there a class of ribbons that have their value as staple commodities because of their adaptation to trimming bonnets and hats?

A. Oh, yes; that is, a class of ribbons.

Q. A class of ribbons?

A. Oh, yes, there is.

Q. Is that a fact that has also existed during your experience?

A. Well, yes; I should say it has.

Q. Do you think you can tell by looking at samples of ribbons whether they are staple commodities for millinery purposes or not?

A. Well, I think I can tell whether they were made for the purpose of hat trimmings or not—whether that was the intent in their manufacture.

Q. You can tell a bonnet trimming when you see it, can't you?

A. I think so.

Q. Now, please look at the samples that will be shown you and state whether or not they come within the class of bonnet trimmings called as you have described them.

A. Well, I don't see anything among those but what I should say, without hesitation, were made for millinery purposes.

82 Q. Is the making, trimming, and ornamenting of hats the predominant purpose of those trimmings?

A. I should say it was.

Q. Are there any ribbons there that are not bonnet trimmings?

A. That is a question I do not feel able to answer. I look upon it that ribbons are always trimmings.

Q. Are there some ribbons which are not used generally for trimming bonnets?

A. Oh, yes.

Q. Are sash ribbons some such ribbons?

A. Sash ribbons are made for the purpose the name implies; they are made for sashes to be worn on dresses.

Q. I suppose they may be used for bonnets, may they not?

A. I have seen cases where they have been used for trimming hats.

Q. But that is not their commercial purpose?

A. No, sir.

Q. What have you to say about segar ribbons?

A. I should say they have a special purpose; they are used for that purpose.

Q. They are used on hats?

A. I never saw them.

Q. They have no commercial value for that purpose, have they?

A. I suppose not.

Q. Are there ribbons that are used for trimming dresses?

A. There are.

Q. That have their chief commercial purpose in that use?

83 A. Yes, sir.

Q. Are you familiar with the articles that have been the subject of importation in this line of goods during your experience?

A. To some extent, yes. I have never been connected with any importing house.

Q. But you have seen the articles in the market?

A. Oh, yes; bought in a prominent importing house and had charge of selling them.

Q. And you have bought and sold imported articles?

A. Yes.

Q. Has there ever been a time in your experience when a merchant of experience in the trade could distinguish millinery trimmings from the other trimmings that were imported?

A. Oh, I should think he ought, always.

Cross-examination by the DISTRICT ATTORNEY:

Q. Ribbons are not imported expressly for dress trimmings, are they?

A. In some cases they are imported for dress trimmings, and in some cases for millinery trimmings. It depends somewhat upon the make and class of the ribbon.

Q. They are generally imported only as ribbons, are they not?

84 A. Well, I have always known all ribbons to be called ribbons.

Q. For how long?

A. Since I have known anything about ribbons; I should say somewhere from 18 to 20 years.

Q. In other words, they are bought and sold by the importer as ribbons, commercially known as ribbons?

A. They are commercially known as ribbons; yes, sir.

Q. They are not known as trimmings?

A. Well, they are known as hat trimmings, but I don't know that they import them distinctly under that name. I can't say that I have bought them under the name of trimmings. I have bought them under the name of ribbons.

Q. I have not asked you that. I only want to know what is the commercial designation of the articles that have been produced before you.

A. Well, I should say they would be invoiced to me, in case I bought them, as ribbons.

Q. Can you tell where those ribbons were made by an examination of their texture?

A. No, sir, I don't think I could.

Q. Are you an expert on ribbons?

A. I have been a buyer of ribbons for some time. I know the purpose they are put to, but I could not be an expert to state just where they are manufactured. I might possibly be able to tell whether a ribbon is domestic or foreign ribbon, but I could not tell in what foreign market it was made.

85 Q. Can you tell whether these are domestic or foreign?

A. I should call those foreign.

Q. All foreign?

A. Yes, sir.

At this point, one o'clock p. m., the court took a recess until two o'clock p. m.

AFTER RECESS.

EDWARD B. DUNCAN, sworn and examined.

By Mr. TREMAIN:

Q. What is your pursuit?

A. I am a salesman in a wholesale millinery house.

Q. How long have you had commercial experience in that line of commodities?

A. About 25 years.

Q. You know what millinery commodities are, then?

A. I do.

Q. Do you know millinery trimmings when you see them?

A. Yes, sir.

86 Q. Does that include ribbons?

A. Yes, sir.

Q. Are there ribbons that are millinery trimmings?

A. Yes, sir.

Q. Can you tell by looking at the samples that I propose to show you whether they are bonnet trimmings or not?

A. I can.

Q. Please look at these samples and say whether those ribbons are trimmings chiefly used for making and ornamenting hats, bonnets, and hoods.

A. They are.

Cross-examination by the DISTRICT ATTORNEY:

Q. I understand you to say you are in a wholesale millinery house?

A. I am.

Q. You mean by that that you sell your goods exclusively to stores or to persons for millinery purposes?

A. No, sir; we also sell dress trimmings and varieties.

Q. You sell, then, ribbons for various purposes?

A. Yes, sir.

Q. Do you sell these ribbons principally to retail dealers or to private milliners?

A. We sell them to retail dealers and to private milliners, both.

87 Mr. TREMAIN. What do you mean by private milliners?

The DISTRICT ATTORNEY. I mean by that, dress-makers.

The WITNESS. Dress-makers are not milliners.

The DISTRICT ATTORNEY. I mean women who make a livelihood by trimming hats.

Mr. TREMAIN. You mean what are considered milliners.

The DISTRICT ATTORNEY. Yes.

Q. Now I understand you to say that you can tell from these goods that they are peculiarly millinery ribbons. Will you kindly state to the jury and to the court upon what you base that statement?

A. By the general character of the ribbons.

Q. I am sorry to say that is not sufficiently definite. Is there any peculiarity of texture that makes a hat trimming rather than a ribbon used in trimming dresses?

A. Yes, sir.

Q. What is it?

A. Well, it is the fancy styles. The majority of these are fancy ribbons, of such style as are not considered those of a character that are used for dress-making.

Q. You mean to say they are never used to trim dresses?

A. I mean to say they are sometimes used for trimming.

Q. Now, when a retailer is purchasing for the purpose of trim-

88 ming dresses or for the purpose of trimming hats, does not the quality

of the ribbon he buys depend to a very great extent upon whether the dresses or hats are going to be made for people of moderate means or for persons who are able to pay for an expensive bonnet or an expensive dress?

A. Well, the character of the ribbons depends, as you say, on the means of the purchaser.

Q. Exactly. So that there would of course be a quality of ribbon made both for dresses and for hats of an indifferent quality, so that they could be sold cheaply; is not that so?

A. As far as I can judge from the samples, according to my own judgment, these ribbons have all been made for millinery purposes.

Q. That is not an answer to my question. You said that you could tell by the quality of the ribbon that it was peculiarly a millinery ribbon.

A. By the style of them.

Q. You say as to the quality that there is no distinction between dress trimming and hat trimming; that they are made either for dress or hat trimmings of indifferent quality to suit the means of the purchaser; that is so, is it not?

A. The style of ribbons. Fashion dictates the style. What is worn to-day may not be worn to-morrow, according to fashion's dictates, and therefore it is hard to say exactly what is used for dress-making. To-day they may use a certain edged ribbon, to-morrow they may use
89 another edged ribbon, but we consider that they are used for millinery trimmings.

Q. But that is not an answer to my question. I want to know whether there is anything in the quality of that ribbon.

A. Nothing in the quality.

Q. What is there as to style?

A. For instance, what they call moire or watered and a satin striped ribbon; there is what they call a loop-edged ribbon and there is a fluted ribbon.

Q. Did I understand you to say they are not used for other purposes than trimming?

A. They may be.

Q. Are they not?

A. Not generally.

Q. Are they not used, for instance, for dress trimming?

A. According to my judgment, there is not a ribbon there that could be used for anything but millinery purposes.

Q. Is there anything in the width that marks it as a millinery ribbon rather than a dress ribbon?

A. No, sir.

Q. Anything in the color?

A. No, sir.

Q. Simply what you call general style?

A. General style and the demand of fashion.

Q. Does your store sell largely for millinery purposes?

A. We do.

Q. Can you state to the jury what would be the relative proportion of goods that you sell for dress trimmings to those for hat
90 trimmings?

A. Well, 95 per cent. of our ribbons are sold for millinery ribbons.

Q. So that naturally your attention has been directed to their use for trimming hats rather than for trimming dresses?

A. Not necessarily. There are parties that don't keep a millinery store at all and we sell to those parties.

Q. I understand you sell 95 per cent. for millinery trimmings?

A. As far as I can judge. We sell to whatever purchaser intends to buy.

Q. What is the house?

A. Strause, Tanhausser & Co.

Q. Do you import your ribbons?

A. Yes.

Q. When retailers come to your house for the purpose of purchasing your goods, do you ask them for what purpose they want them?

A. We do sometimes. They ask us for a bibbon. We say, "Do you want a wide or narrow ribbon?" not generally for what purpose.

Q. So, in point of fact, you don't know really for what purpose they want them?

A. Not always.

Q. It is purely an inference on your part; you think they are used for hat trimmings?

A. I know by my personal observation that they are used for hat trimmings.

Q. Don't you know, according to your personal observation, as you have already testified, that they are also used for dress trimming?

91 A. Not to the extent that they are used for millinery trimmings.

Q. I understand you now to say, and I want to understand you clearly, and I don't mean to detain the court or jury with needless iteration; I understand, as to color, width, texture, there is no difference between a ribbon that is used for trimming dresses, but there is a difference in style. Don't the styles vary from year to year?

A. They do.

Q. And don't they vary according to people's wills?

A. They do.

Q. And they vary from season to season?

A. They do.

Q. So that a trimming that you had suitable for a dress in 1883 and not suitable for hat trimming in 1883, might this year be peculiarly a millinery ribbon; that is a possible case, is it not?

A. It is possible.

Redirect examination by Mr. TREMAIN:

Q. You sell to dress-making people?

A. We do.

Q. And you sell to the millinery trade?

A. We do.

Q. And you are familiar with the commodities of bonnet trimmings during all your commercial experience that have been used?

92 A. Yes.

Q. Has there ever been a time when ribbons were not largely used for millinery purposes?

A. There has not.

Q. Has there ever been a time when there was not a class of ribbons that had their predominant use for millinery purposes—some class of ribbons?

A. Not to my knowledge.

Q. And in respect to these particular samples that are represented there—the style and the character, and the quality of those ribbons represented by those samples—is it or is it not true that their predominant use is for millinery purposes?

A. The predominant use of these ribbons is for millinery purposes.

Q. Has that always been so?

A. To my knowledge, yes.

Q. I understood you to say that each ribbon has some distinguishing feature of style or name.

A. Yes, sir.

Q. That name may have reference to its texture, color, size, width, or material?

A. It may.

Q. There are a great many specific names to designate a great many different kinds of ribbon?

A. There are.

Q. Are they all trimmings?

A. All ribbons are considered as trimmings.

93 MORTON N. KRIDEL, sworn and examined.

By Mr. TREMAIN:

Q. Are you a merchant?

A. Yes, sir.

Q. What line of goods does your commercial experience cover?

A. Millinery.

Q. How long have you been familiar with merchantable commodities that had their use for millinery purposes?

A. 25 years.

Q. Do you know millinery trimmings when you see them?

A. I do.

Q. Does that include a large class of articles?

A. Yes.

Q. Does that include ribbons?

A. Yes.

Q. Will you please look at the samples and say whether those are millinery ribbons or not?

A. Yes, sir.

Q. What is their chief use?

A. Chiefly for millinery purposes.

Q. What do you mean by millinery purposes?

A. For hat trimmings.

Q. Men or women?

A. Women.

Q. Has that been so during your experience.

A. Yes, sir.

94 Cross-examination by the DISTRICT ATTORNEY:

Q. Mr. Kridel, do I understand that you are an importer?

A. Yes, sir.

Q. What is the name of the firm?

A. J. Kridel.

Q. And where is your place of business?

A. 611 Broadway, New York.

Q. Importer of what?

A. Millinery goods.

Q. What do you understand to be included in the term millinery goods?

A. All articles of that description.

Q. Of what description?

A. Ribbons,

Q. Well, that is one.

A. Silk and velvet.

Q. Silk, you mean in sheets or rolls?

A. In pieces.

Q. Well, what else?

A. Plushes.

Q. What else?

A. Velvets; that is about all.

Q. Those are millinery goods?

A. Those are millinery goods; yes, sir.

Q. You do not include silk thread in it, then?

A. Yes, sir.

Q. You consider silk thread millinery goods, do you?

A. Yes, sir.

95 Q. You know silk thread is used for a great many purposes, don't you?

A. What I mean is manufactured in the article.

Q. How do you mean manufactured in the article?

A. Placed in the article, manufactured in the very article which I mentioned to you.

Q. I am now speaking of the thread which is used for sewing the hat together. Do you call that millinery?

A. I suppose they use it for millinery goods too.

Q. Don't you know?

A. I suppose they do.

Q. Don't you know enough about bonnets to know what they are made of?

A. I do; yes.

Q. Please tell me whether silk thread is used in making a bonnet?

A. Silk thread is used for sewing on the articles.

Q. Then as a matter of fact you are prepared to say that silk thread is used in making a bonnet?

A. Yes.

Q. Have you any claims against the Government?

A. Some.

Q. Of a like nature to this?

A. Yes, sir.

Q. Those suits are now pending, are they not?
A. I guess so.
Q. What is the commercial designation of those articles that you have there?
A. These are styled ribbons.
A. Did you ever hear them called by any other title than that in all your experience of 25 years?
A. I did not.
96 Q. You never heard them called hat trimmings?
A. They are called hat trimmings.
Q. Do you mean to tell me as an importer of goods that you ever received a bill or ever made out a bill to customer in which ribbons of this character were designated in your invoices received or your bills given as hat trimmings?
A. No, sir.
Q. Always billed as ribbons?
A. Always billed as ribbons.
Q. Always known as ribbons?
A. Always known as ribbons.

Redirect-examination by Mr. TREMAIN:

Q. Are there silks, plushes, velvets, and ribbons that are not millinery goods?
A. Yes, sir.
Q. Is silk thread a millinery trimming?
A. Well, what do you mean by silk thread; as to sewing, or what?
Q. Sewing.
A. Well, I don't know. I suppose they use that for millinery purposes to sew that bonnet together.
Q. That is not the trimming, is it?
A. It is not the trimming.
The DISTRICT ATTORNEY. It is used for making the bonnet, though.
Mr. PRITCHARD. So is the milliner.
97 Q. The ribbon is made of threads, is it not?
A. Yes, sir.

SIMON ABELS, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?
A. Millinery.
Q. Are you familiar with millinery commodities?
A. Yes, sir.
Q. How long has your mercantile experience covered such commodities?
A. A little over twenty years.
Q. Do you know what are millinery trimmings?
A. Yes, sir.
Q. What are they?
A. Ribbons, feathers, flowers, crepes, melines, laces, and lots of other things.
Q. Can you tell a millinery trimming when you see it?
A. Yes, sir.

Q. Just look at those samples and tell me whether they are millinery trimmings or not?

A. Yes, sir.

Q. What is their chief use?

A. To trim hats and bonnets is their chief use.

98 Q. Has there ever been a time in your commercial experience when there have been some staple commodities passing among merchants as millinery trimmings?

A. No, sir.

Q. Has there ever been a time when ribbons were not staple commodities in the millinery term?

A. Some kinds of ribbon always.

Cross-examination by the DISTRICT ATTORNEY:

Q. With what house are you connected?

A. S. Abels & Co.,,806 Arch st.

Q. Have you any suit against the Government in which a similar question is pending?

A. No.

Q. You say the chief use to which these articles are put is to trim hats. What per cent. of your goods do you sell for millinery purposes, or do you sell exclusively for millinery purposes?

A Exclusively.

Q. Then you do not sell at all for dress trimmings?

A. Yes, we sell to a few dress-makers.

Q. But your specialty as business men is for millinery purposes?

A. Yes, sir.

99 Q. Naturally your experience in this case is confined to the use of the ribbons for millinery purposes?

A. We sell a few goods outside of that.

Q. You don't make a specialty of it?

A. We sell a few to manufacturers, a few to people that make men's hats and a few to people that make ladies' hats; they are not for millinery purposes, though.

Q. I repeat, principally and chiefly your business is for millinery purposes?

A. Principally.

Q. Are you an importer?

A. No, sir; we sometimes import some feathers; no ribbons.

Q. If you were making out a bill of sale to a purchaser, you wouldn't call those hat trimmings; you would call them ribbons, wouldn't you?

A. You wouldn't call them hat trimmings; you might call them ribbons.

Q. What would you call them?

A. We generally have dress ribbons. We might put on the bill 230 whatever it was, $2.50 whatever it was.

Q. If you were ordering some from a manufacturer on the other side, or from a manufacturer in this country, you would order ribbons, wouldn't you?

A. Yes, sir.

Q. That is the commercial designation to apply to those articles—ribbons?

100 A. No, if I were ordering from the other side a ribbon, I would want a changeable ribbon, or a ribbon like that [indicating]. I would want a watered ribbon.

Q. You would buy them and sell them as silk ribbons, and that is your understanding applied to that commercial class of articles—a silk ribbon?

A. Yes, sir.

Redirect examination by Mr. TREMAIN:

Q. Is a bonnet a hat?

A. No, sir.

Q. What is a bonnet?

A. It is pretty hard to say; I couldn't tell you exactly.

Q. It don't mean anything indifferent in trade from what it does to people out of trade?

A. Well, I guess it might. What you would understand as a bonnet, we might understand as a hat in the trade.

Q. In both of those articles, hats and bonnets, there is a body to the article, and a trimming to it?

A. Yes, sir.

Q. Of what is the body generally composed?

A. Well, frames. The body is sometimes composed of buckram, sometimes of straw and different things of that kind.

Q. Felt?

A. Felt.

Q. Steel?

A. Steel like a cloth sometimes.

101 Q. And what is the trimming?

A. Ribbons, flowers, feathers, &c.

Q. Those have always been the chief trimmings in millinery use?

A. Yes, sir.

Recross examined by the DISTRICT ATTORNEY:

Q. Trimmings are sometimes made of straw?

A. What do you mean?

Q. Aren't there such trimmings as straw trimmings?

A. Yes, sir.

Q. Also chip, grass, palm leaf, hair, and whalebone?

A. Yes, sir.

Q. They are also used for trimmings?

A. You can trim a hat with anything you feel like.

Q. None of the articles I just read to you are composed of silk, are they?

A. No, sir.

102 SIMON I. KOHN, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Millinery goods.

Q. Are you a merchant?

A. Yes, sir.

Q. How long has your experience extended over millinery commodities?

A. About twenty years.

Q. Where do you do business?

A. In Philadelphia.

Q. Whereabouts?

A. On Market street.

Q. What is the name of the firm?

A. Kohn, Adler & Co.

Q. Wholesale millinery?

A. Yes, sir.

Q. Have there always been a class of commodities dealt in in the millinery trade?

A. Yes, sir.

Q. What are those chief commodities?

A. Ribbons constitute one ot the chief commodities in the millinery business, velvets, silks, plushes.

Q. Ribbons are trimmings, then, are they?

A. Yes, sir.

Q. Now will you please tell us whether you can tell a millinery ribbon when you see it?

A. Yes, sir.

103 Q. Please look at the samples in this case and say whether they are or are not millinery ribbons?

A. These are all millinery ribbons.

Q. What is their predominant use?

A. For trimming hats and bonnets.

Cross-examination, by the DISTRICT ATTORNEY:

Q. Mr. Kohn, what is the name of your firm?

A. Kohn, Adler & Co.

Q. And your business?

A. Market street, Philadelphia.

Q. And importers of what?

A. Millinery goods generally.

Q. You are importers direct?

A. To a certain extent; yes, sir.

Q. What do you mean by a certain extent?

A. We buy in all the markets, the American markets and foreign markets, wherever we find it best to buy.

Q. Then you are known as importers directly; that is to say, you import direct on your own account?

A. Yes, sir; all of our goods are not imported goods.

Q. No; I understand that. You import silk ribbons, do you?

A. Yes, sir.

104 Q. Silk goods of various kinds?

A. Yes, sir.

Q. Have you brought any suits against the Government?

A. Yes, sir.

Q. For duties on silk ribbons.

A. Yes, sir.

Q. The same kind of a case as this?
A. Yes, sir.
Q. And that case is still undetermined, is it not?
A. Yes, sir.
Q. Now, I understand that you deal in articles similar to those samples? Is that so?
A. Yes, sir.
Q. You sell them to your customers?
A. Yes, sir.
Q. And you buy them?
A. Yes, sir.
Q. Now, if a customer should come into your store and ask for hat trimmings or bonnet trimmings, what would you hand him?
A. I wouldn't hand him anything.
Q. You wouldn't hand him anything. You wouldn't know what he wanted, would you?
A. No, sir.
Q. But if a customer walked into your store and asked for silk ribbons, you would know exactly what he wanted?
A. No, sir; not exactly.
Q. You would know more than you did before, wouldn't you?
A. Yes, a little more; not very much more.
Q. Well, I don't know as much about your business as you do, but do you mean to say that if a customer asked for silk ribbons
105 you wouldn't know what he meant?
A. We wouldn't know where to go to get what that customer wants.
Q. That is to say, you wouldn't have any silk ribbons in your store?
A. The customer would have to designate what kind of silk ribbons he wanted.
A. He would have to tell you whether it was watered ribbon?
A. Exactly.
Q. Or grosgrain?
A. Exactly.
Q. Or satin-finished ribbon?
A. Exactly.
Q. And then you would know what he wanted, would you?
A. Yes, sir.
Q. Now these are all silk ribbons, are they not?
A. I think they are; I didn't take them apart.
Q. They are all silk ribbons?
A. I presume so.
Q. They are commercially known as silks, are they not?
A. Yes, sir.
Q. And were in 1883?
A. Yes, sir.
Q. And always have been?
A. Always have been known as ribbons.
Q. Never commercially known as hat trimmings?
A. Commercially known as ribbons and used for hat trimmings.

Redirect examination by Mr. TREMAIN:

106 Q. By the way, do you deal in ribbons for trimming men's hats?
A. Well, we have dealt in them occasionally.
Q. What are they?
A. Do you mean of what texture?
Q. Are they ribbons?
A. They are ribbons; yes, sir.
Q. Do they use them for men's hats?
A. What?
Q. Any kind of ribbons?
A. Yes, ribbons are used for men's hats?
Q. What kind?
A. Various kinds.

Recross-examination by the DISTRICT ATTORNEY:

Q. They are called hat-bands, aren't they?
A. Well, we call them ribbons.
Q. Hat ribbons?
A. Hat ribbons; ribbons for hatters' purposes.

H. CORBETT CGDEN, sworn and examined.

By Mr. TREMAIN:

Q. What is your business, Mr. Ogden?
107 A. Buyer and seller of ribbons.
Q. At wholesale?
A. Yes, sir.
Q. How long have you been familiar with that class of commodities?
A. About 21 years.
Q. Where do you do business?
A. New York City.
Q. And the name of the house?
A. Lewis Brothers & Co.
Q. Have they a house in Philadelphia?
A. Yes, sir.
Q. Do you know what the class of commodities are that are distinguished among merchants as trimmings, used for making or ornamenting hats, bonnets, or hoods?
A. Yes, sir.
Q. Do you know a millinery ribbon when you see it?
A. Yes, sir.
Q. What is the chief use of ribbons generally?
A. For millinery purposes.
Q. Look at those samples and tell me what the chief use of those particular ribbons is.
A. For millinery purposes only.
Q. Are merchants who deal in such articles generally able to tell what articles are for millinery purposes and what are not?
A. Yes, sir.
Q. Has that always been so during your commercial experience?
The DISTRICT ATTORNEY. I object to that.
Mr. TREMAIN. I won't press it.

The DISTRICT ATTORNEY. I have no objection to his telling
108 what he can.

Cross-examination by the DISTRICT ATTORNEY:

Q. What is the name of your firm?
A. Lewis Brothers & Co.
Q. Of New York or Philadelphia?
A. Both.
Q. Are you direct importers?
A. Yes, sir.
Q. Of silk ribbons and silks?
A. Yes, sir.
Q. Have you any claim against the Government?
A. I have had several for a number of years.
Q. Have you brought any suits recently for the difference between 20 per cent. and 50 per cent. on the question whether it is silk ribbon or not?
A. Of my own personal knowledge I don't know.
Q. Don't you know that you have?
A. No, sir.
Q. Don't you know that Mr. Tremain represents you in a suit of that kind?
A. Not individually; no.
Q. You know it from members of the firm?
A. Well, I was never consulted in the matter.
Q. I won't press it. Are you the buyer for your house?
A. Yes, sir.
Q. Will you be kind enough to tell me whether you have ever known any other commercial designation for the samples you have in
109 your hand than silk ribbons?
A. We don't denominate them silk ribbons.
Q. What do you denominate them, ribbons?
A. Ribbons.
Q. Then the commercial designation of those samples, of the goods of which they form a part, is ribbon, is it not?
A. That is the general term; yes, sir.
Q. They are bought by the term of ribbons and they are sold by the term of ribbons, are they not?
A. Yes, sir.
Q. And I might ask you the same question that I asked the previous witness: When a customer of yours walks into your store and asks for hat trimmings you don't know what he means, do you?
A. Well, I know that he means trimmings for a hat.
Q. But you don't know what he wants, do you? You wouldn't know what a customer wants?
A. I know he wants ribbons.
Q. Do you mean to tell me that if a customer walked into your store and asked you for a hat trimming that you would know that he wanted a ribbon?
A. If he asked me personally, yes.
Q. How are you able to tell that?
A. Because I sell ribbons.

Q. Do you mean to say there are no other trimmings used for a hat?
A. No.

Q. Then it is only because you sell ribbons and nothing else
110 that when a customer came to you you would know from the fact that you were presiding over that department that he wanted to purchase what you had to sell; that is the reason you draw that conclusion, is it not?

A. As a rule, I generally know the buyer when he comes in, and if he is a millinery man, I know the ribbons that are in demand.

Q. I will put it in a broader way; I understand your reason for answering that way. If a customer were to walk into John Wanamaker's, the plaintiff in this suit, and were to ask one of his salesladies for hat trimmings, are you able to tell from your experience whether she would know what he meant by the use of that term?

Mr. TREMAIN. We object to that.

A. It depends on the fashion altogether.

Q. The fashion changes from year to year. There is no doubt about this fact, that in 1883 these samples, or the goods of which they form a part, were commercially known as ribbons?

A. For a millinery purpose.

Q. Excuse me, that is your classification. Is it not a matter of fact that they were known commercially and only known as ribbons commercially in 1883?

A. Those actual samples that you have handed me can only be used for millinery purposes.

111 Q. You have already said that, and I have not disputed that statement at all. But I am asking another question which goes beyond that. I want to know whether in 1883 the ribbons of which these are samples were not known as ribbons and only known as ribbons commercially. Now, you are a merchant; you know what I mean.

A. In a general way they were known as ribbons.

Q. Were they not imported as ribbons?

A. We don't use the designation ribbon when we order the goods. We order them by line or we order them by numbers. We don't use the word ribbon at all.

Q. What do you use?

A. The pattern numbers.

Q. When you buy by sample, aren't they invoiced?

A. We buy by line number, by carton and sample; we don't use the word ribbon.

Q. Weren't they bought and sold as ribbons?

A. Well, in your way, I presume they were.

Q. Well, but I mean in the true way. Weren't they bought as ribbons, and aren't they dealt in as ribbons to-day?

A. Well, they are ribbons, of course; you can't call them anything else.

Redirect examination by Mr. TREMAIN:

Q. There are hundreds of different kinds of ribbon, are there
112 not?

A. Yes, sir.

Q. Do you know the different kinds of ribbon? Can you mention the names?

A. Every season we have quite a number of different names.

Q. Suppose you give the names of a few of the general distinctive kinds of ribbon?

A. Well, the plain grosgrain ribbon, grosgrain and satin ribbon. Plain grosgrain ribbon can have a satin edge. Well, a plain grosgrain ribbon can be finished in a dozen different ways, and each particular way has its own designation, and yet it is nothing but a grosgrain ribbon all the same. It is the same way with satin-backed ribbon. You can go all through them that way.

Q. What other kinds are there?

A. You can take grosgrain ribbon and moire it on both sides or moire it on one side, and even change all the edges in addition.

Q. Would each ribbon have its distinctive name?

A. Yes, sir.

Q. And distinctive features?

A. Yes, sir.

Q. And does the trade depend upon the particular fancy of that ribbon?

A. How do you mean?

Q. Does the value of the ribbon depend upon the particular fancy of the trade for that particular ribbon?

113 A. Of the buyer. It is entirely a matter of fashion. It is a speculative article in every way.

Q. Is there any kind of ribbon that is not a trimming?

A. It can be used as trimming. All ribbons can be used as trimmings.

Q. Are they used for anything else except to trim something?

A. Not to my knowledge.

Recross-examination by the DISTRICT ATTORNEY:

Q. They are used to put on bouquets of flowers and to trim curtains and to trim pillow-shams and many household articles, are they not?

A. Yes, sir.

WILLIAM J. BRETT, sworn and examined.

By Mr TREMAIN:

Q. What is your business?

A. Silk-goods buyer.

Q. What house?

A. James G. Johnston & Co.

Q. Whereabouts?

A. 655 Broadway, New York.

114 Q. What is their line of commodities?

A. Millinery goods.

Q. Is it a millinery house?

A. Exclusively.

Q. You know the millinery trade?

A. Yes, sir.

Q. How long have you been familiar with millinery commodities?

A. 12 years.

Q. Do you know millinery trimmings when you see them?

A. Yes, sir.
Q. What do you mean by millinery purposes?
A. Trimmings for a bonnet.
Q. What are some of the chief commodities that are millinery trimmings?
A. Ribbons, silks, laces, flowers, feathers, ornaments.
Q. Are ribbons the principal millinery trimmings?
A. They are.
Q. Can the average merchant in the trade, an expert milliner, tell millinery ribbons when he sees them?
A. Yes, sir.
Q. Are you able to do so?
A. I think so.
Q. Please look at these samples and tell us whether they are millinery ribbons or not.
A. They are all millinery ribbons.
Q. What is their predominant use?
A. For trimming bonnets and hats.
115 Q. What is a bonnet and what is a hat?
A. It depends on the shape.
Q. Are there ribbons used for men's hats?
A. I believe there are.
Q. But you don't deal in them?
A. No, sir.
Q. Describe what a bonnet is made of, and how it is constructed.
A. I have seen bonnets made of felt and I have seen them made of straw.
Q. And made of wire?
A. They are edged with wire.
Q. Buckram?
A. Frames made in buckram.
Q. Cotton and felt?
A. Felt; that is the bonnet. A trimmed bonnet is made of different articles.
Q. Bonnets are commodities, both trimmed and untrimmed, are they not?
A. They are.
Q. And the trimmings are commodities?
A. They are.
Q. You deal in both of them?
A. Yes, sir.
Q. At wholesale?
A. Yes, sir.
Q. What staples are and always have been, during your experience, the chief trimmings for bonnets?
A. Ribbons, flowers, and feathers.
116 Cross-examination by the DISTRICT ATTORNEY:
Q. Mr. Brett, what is the name of your firm?
A. James G. Johnston & Co.
Q. Are they direct importers of silks and silk ribbons?
A. They are.

Q. They have a claim against the Government, too, haven't they?
A. I don't know.
Q. Have you heard them speak of it?
A. No, sir.
Q. If I remember rightly, not very long ago they used silk handkerchiefs to trim bonnets with, did they not?
A. Yes, sir.
Mr. TREMAIN. They are specially mentioned.
The DISTRICT ATTORNEY. I know they are mentioned; I understand that.
Q. At that time did you claim silk handkerchiefs to be hat trimmings?
Mr. TREMAIN. I object to that, sir.
Q. Were those handkerchiefs sold as hat trimmings?
A. They were sold to be used as hat trimmings, what we sold of them.

Q. Did I understand you to say in answer to Mr. Tremain that
117 among the trimmings for bonnets were laces?

A. I don't know that I mentioned that. I think I did not say laces.
Q. When was it that silk handkerchiefs were used for trimming hats?
A. About four years ago.
Q. And continued about how long?
A. About one season.
Q. Well, about four or five years ago, the chief element in the trimming of a bonnet was velvet, was it not?
A. No, sir.
Q. Velvet or plush?
A. No, sir.
Q. When was that the prevailing fashion?
A. I don't know that it ever was. It was used in the making of a bonnet at times.
Q. Wasn't it the chief part of a bonnet?
A. Well, the chief part of a bonnet; yes.
Q. Bonnets were made almost exclusively of velvet and plush?
A. Bonnets are to-day.
Q. And hats?
A. And hats too.
Q. Well, as a matter of fact, scarcely any ribbon was used at that time on the bonnet; is not that a fact?
A. No, sir; it is not a fact.
Q. Well, what was used on them at that time?
A. There were many articles—ribbons, flowers, and feathers. There were many articles used on them at that time.
Q. These samples that you have in your hand are commercially known as ribbons, are they not?

A. Millinery ribbons.

118 Q. Are they commercially known as ribbons or not?

A. To me they would only be known as millinery ribbons.

Q. To you they are known as millinery ribbons because your opinion as to the title is controlled by the use of them, or what you understand to be the use, is it not?
A. I understand they were made for that purpose.

Q. Now I am asking you for your own knowledge. I want to know whether the commercial designation of those samples that you hold in your hands is not ribbons?

A. It is.

Q. And ribbons only?

A. I will not say that it is ribbons only, but it is ribbons.

Q. Wasn't it so in 1883?

A. It was.

Q. They were not known as trimmings commercially?

A. In the millinery business they were always known as trimmings.

Q. I am not asking about the millinery business; I am asking you, as an importer and a man who has knowledge of silk goods, as you say you are.

A. Yes, sir.

Q. I want to know whether the only commercial designation that those articles had in 1883 was not ribbons, and ribbons only?

A. The only thing that I know about is the millinery business, and they have always been known as millinery ribbons.

Q. Do you see the invoices that accompany the goods when they
119 come to your store?

A. Many of them.

Q. Don't you know that in some of them they were so called by the exporter on the other side?

A. No, sir; I know that they were described.

Mr. TREMAINE. You mean specifically described?

The WITNESS. Yes, sir.

Mr. TREMAINE. Give an example.

By the DISTRICT ATTORNEY:

Q. I understand your business is simply that of dealer in millinery goods?

A. Yes, sir.

By Mr. TREMAINE:

Q. You sell to dressmakers, too?

A. We sell of course to anybody that wishes to buy our goods, but we don't cater for that trade.

Q. Yours is a wholesale millinery house?

A. Yes, sir.

Q. And you are talking about the usages of the trade?

A. Yes, sir.

By the DISTRICT ATTORNEY:

Q. Have you ever seen any of the invoices that accompanied the goods which you purchased?

A. I have.

Q. Are you prepared to say that they were described only as ribbons or not?

A. I am prepared to say that many of them that I saw were described as to the kind of ribbon.

120 Q. What do you mean by that?

A. Well, for instance, I know that they would be described as

watered ribbons, that they would be described as grosgrain and velvet ribbons, velvet and satin ribbons, glacé ribbons, &c.

Q. That is the only method of ribbon that was used in the description in the invoice?

A. That is the only method except the widths and numbers, lines and patterns.

Q. But they were not described in the invoice as millinery ribbons?

A. No; they were not. I don't think they were. Of course we don't import them for any other purpose.

By Mr. TREMAIN:

Q. Your house has no claims against the Government on this question that you know of?

A. I don't know of any.

Q. You have never heard of any?

A. No, sir.

Q. You have no interest yourself in this controversy have you?

A. No, sir.

By the DISTRICT ATTORNEY:

Q. You are not a member of the firm, are you?

A. No, sir.

121 WILLIAM J. GILL, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. An employé of Huntinghouse & Curtis.

Q. Where is their place of business?

A. 473 Broome street, N. Y.

Q. Are you familiar with millinery goods?

A. Millinery ribbons, yes, sir; generally.

Q. Do you know what are millinery trimmings?

A. I think so, most of them; yes, sir.

Q. How long has your mercantile experience covered that line of commodities?

A. Specially in millinery goods four years; all ribbons.

Q. What do you mean as millinery goods?

A. Anything that could be used for millinery purposes in trimming or making a hat.

Q. What are millinery purposes?

A. Making a woman look elegant, I guess.

Q. Have you got a receipt for that?

A. Not that I know of.

122 Q. What is the chief use of ribbons, so far as you know?

A. For millinery purposes.

Q. Do you think you know a millinery ribbon when you see it?

A. I think I can tell most of them.

Q. Suppose you look at this bundle and tell us whether these are millinery ribbons or not?

A. I should describe those as millinery ribbons.

Q. What is their predominant commercial use?

A. For trimming bonnets or hats.

Q. Have there always been a class of ribbons whose chief commercial use was for trimming bonnets or hats, during your experience?

A. Yes, sir.

Q. Are ribbons sometimes used for other purposes?

A. Oh, yes.

Q. What are some of the other kind of ribbons?

A. For ornamenting other kinds of goods, for fancy work, for binding, for cigar ribbons, and that sort of thing.

Cross-examination by the DISTRICT ATTORNEY:

Q. What is the name of your house?

123 A. Huntinghouse & Curtis.

Q. You are not a member of the firm?

A. No, sir.

Q. You don't know about suits brought against the Government?

A. No, sir.

Q. You never heard them talked about?

A. No, sir; that is not my business.

Q. What is your business?

A. It is my business to sell goods.

Q. When a man walks into your store and asks you for a ribbon what do you hand him?

A. We generally try to hand him the first thing we can get.

Q. The first thing you can get at to sell the bill?

A. That is right.

Q. And when he comes in and asks you for millinery goods you ask him what kind he wants?

A. Give him the next millinery ribbons nearest him.

Q. Do I understand you sell only ribbons?

A. That is all.

Q. Then you could not answer that question. Do you know what the commercial designation of that article is you have in your hand?

A. Ribbons, under the general head.

Q. The chief component part of which is silk, is it not?

124 A. Yes, sir; I presume so.

Q. It is not called hat trimming or bonnet trimming?

A. No; we designate these chiefly as fancy ribbons.

Q. That is their title, is it not?

A. Yes, sir.

Mrs. AMELIA J. PARKER, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Manufacturer of straw goods.

Q. Do you use ribbons largely in your business?

A. Yes, sir.

Q. How long have you been familiar with that class of goods?

A. Twenty years.

Q. Do you know what the chief use of ribbons is?

A. Yes, sir.

Q. Will you please state to the jury what is the chief use of ribbons?

A. For trimming hats and bonnets.

125 Q. What is the principal trimming that is used and always has been used for trimming hats and bonnets?

A. Ribbons.

Q. That has always been the chief trimming that has been used for that purpose, has it not?

A. Yes, sir.

Q. Do you trim bonnets?

A. Hats, principally.

Q. Is a bonnet a hat?

A. Some ladies call it a bonnet and some call it a hat.

Q. Do you trim men's hats at all?

A. Very little.

Q. What do you use for trimming men's hats?

A. Ribbons.

Q. A different character of ribbons from those used for trimming women's hats?

A. Yes, sir.

Q. Do you think you can tell what is a millinery ribbon when you see it?

A. Yes, sir.

Q. Suppose you tell us whether those samples, or any of them, are millinery ribbons or not; you haven't seen those before, have you?

A. No. I should call those millinery ribbons.

Q. What is their chief use?

A. For bonnet and hat trimming.

Cross-examination by the DISTRICT ATTORNEY:

Q. I did not quite understand; are you a manufacturer of straw goods?

A. Yes, sir.

126 Q. And also attend to their trimming?

A. I trim them.

Q. Do you sell them in the finished state; that is, in the trimmed state?

A. Yes, sir.

Q. Do you deal exclusively in hats and bonnets?

A. Hats principally.

Q. Do you deal in them by wholesale or retail?

A. Wholesale.

Q. In this city or New York City?

A. In this city.

Q. Do you deal at all in dresses?

A. No, sir.

Q. You sell exclusively hats in the untrimmed and trimmed state?

A. Yes, sir.

Q. Then you have no business knowledge as to the uses of ribbons for any other purposes than for trimming hats?

A. No, sir.

Q. You know as a matter of fact, however, that they are used for other purposes, are they not?

A. Yes, sir.

Q. They are used for trimming dresses, are they not?

A. Yes, sir.

Q. Young girls use them for sashes?

A. Yes, sir.

Q. And use them for fancy work?

A. Yes, sir.

Q. And use them for trimming fancy jewelry boxes and a great many purposes besides?

A. Yes, sir.

Q. Now you stated a moment ago, I think it was inadvertently,
127 that the chief use of these ribbons was for trimming hats. Did you not mean by that that that was the chief use which had come under your attention; that is to say, as far as your business went, that the chief use for which you used them was for trimming hats; is not that the case?

A. No, sir; as far as my knowledge goes, they are principally used for bonnets and hats.

Q. What do you know about those used for other purposes?

A. By observation.

Q. I understand you to say that you have no business acquaintance at all with the amount of ribbons used for other purposes; is not that so?

A. Yes, sir.

Q. So that as a matter of fact you don't know whether they are chiefly used for other purposes or to trim hats; is not that so?

A. Only from observation.

Q. What do you mean by observation?

A. If I saw fifty bonnets trimmed with ribbons and one dress I should judge that the majority that were trimmed with ribbons would be hats.

Q. I am not asking with reference to the amount used in trimming dresses or hats, but I mean the relative amount used in trimming hats and for other purposes. Do you mean to say under oath to this jury that you have sufficient knowledge in the first place and from your knowl-
128 edge in the second place that you are prepared to say they are chiefly used in trimming hats?

A. I should say they were.

Q. Where do you purchase your ribbons from?

A. Different parties.

Q. What parties, for instance?

A. Kohn & Adler.

Q. When you go to Kohn & Adler—I don't know whether you go personally or write for it—what do you ask for?

A. Trimmings.

Q. Don't you ask for ribbons?

A. No, sir.

Q. If you asked for hat trimmings wouldn't that include birds' wings and feathers and silk handkerchief and a great variety of articles?

A. Yes, sir.

Q. So of course you ask for hat trimmings and you go generally for hat trimmings. But I want to ask now if you want to go for silk ribbons—of course as you deal exclusively in hats you want them for hats—but if you were going to get silk ribbons for different purposes you would ask for silk ribbons, wouldn't you?

Mr. Tremain, I ask to have that question subdivided.

Q. If you would go to Kohn, Adler & Co., and wanted silk ribbons, what would you ask for?

A. If I wanted trimmings, I would ask for hat trimmings.

129 Q. Suppose you wanted silk ribbons for the purpose of trimming, would you ask for silk ribbbons or hat ribbons?

A. Well, they would generally know what I came for.

Redirect examination by Mr. TREMAIN:

Q. You have no interest in this controversy, have you?

A. No, sir.

JAMES L. BUGH, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Hats, caps, bonnets, and so forth.

Q. Do you deal in them at wholesale?

A. Yes, sir.

Q. Do you deal in them trimmed and untrimmed?

A. Yes, sir.

Q. Do you manufacture?

A. I do not. I trim a great many.

130 Q. Where is your place of business?

A. 606 and 608 Market street.

Q. Are you familiar with the class of commodities that are staple articles in commerce as trimmings used for making and ornamenting hats, bonnets, and hoods?

A. I am.

Q. How long have you been familiar with that class of commodities?

A. 25 years at least.

Q. Do ribbons belong to that class of commodities?

A. They do.

Q. Can people who are experienced in the trade determine what are bonnet ribbons and what are hat ribbons when they see them?

The DISTRICT ATTORNEY. I object to what others can determine.

Q. Well, can you, as an experienced merchant, determine when you see an article whether it is a bonnet or a hat trimming or not?

A. I can.

Q. Well, will you please tell the jury what class of commodities are recognized in commerce as trimmings for those purposes?

A. Ribbons, flowers, ornaments, silks, satins, serges, and other articles.

Q. Are ribbons trimmings?

A. Ribbons are used as trimmings.

Q. That is their principal use?

A. They are principally used; yes, sir.

131 Q. Can you tell when you see ribbons whether they are millinery ribbons or not or hat ribbons or not?

A. I could tell whether they are used for that purpose or not. I could distinguish between a sash ribbon and a ribbon for trimming hats or bonnets.

Q. Will you be good enough to look at those samples and say whether they are ribbons of that character or not?

A. I unhesitatingly say that these are principally used for that purpose.
Q. For what purpose?
A. The trimming of ladies' hats and bonnets.
Q. Do you trim men's hats?
A. No, sir.
Q. Do you use the article which is used for trimming men's hats?
A. Not at the present time. I have used it. What kind of hats have you reference to?
Q. Any kind.
A. If you have reference to men's straw hats, there are ribbons used for them, what we commonly term as ribbons. If you refer to men's silk hats, we use what is called bands and bindings.
Q. They are all trimmed?
A. They are all trimmed.
Q. You can distinguish such articles when you see them, can you not?
A. I think so; unquestionably.

132 Cross-examination by the DISTRICT ATTORNEY:

Q. What is the name of the firm with which you are connected?
A. C. H. Gardner & Co.
Q. And their business is what?
A. Hats, caps, straw goods, and millinery.
Q. I understood you to undertake a definition of the word trimmings. I didn't catch the whole of it. Will you be kind enough to repeat it?
A. Do you want me to enumerate the different things that are used in trimming hats and bonnets?
Q. Yes. I got as far as ribbons, silks, and satins. What were the rest?
A. Ostrich feathers, fancy wings, ornaments, surahs, and velvets.
Q. All those different articles are used for trimming hats?
A. They constitute the trimming for ladies' hats or bonnets.
Q. Beads also?
A. Sometimes beads.
Q. Mr. Bugh, those samples that you have in your hand are commercially known as ribbons?
A. They are, sir.
Q. And always have been?
A. To my knowledge.
Q. I understood, however, for you to answer to Mr. Tremain that the ribbons that you have there are used for trimming hats?
133 A. For ladies' hats principally.
Q. But their commercial designation is and always has been ribbons?
A. Yes, to my knowledge.
Q. And is that from an experience of 25 years?
A. Yes, sir. If I were to go into an importing house or into a manufacturer's I should ask for ribbons.

DAVID A. HUNTER, sworn and examined.

By Mr. TREMAINE:

Q. What is your business, Mr. Hunter?
A. Dealer in millinery goods, wholesale.

Q. How long have you been familiar with millinery commodities?
A. 23 years.
Q. Where do you do business?
A. 722 Arch street, Philadelphia.
Q. You know millinery trimmings?
A. Yes, sir.
Q. What are some of the chief millinery trimmings?
134 A. Ribbons, velvets, surahs, satins, feathers, flowers, and ornaments, bead trimming, and a variety of things.
Q. I notice you named ribbons first. Can you tell a millinery ribbon when you see it?
A. Yes, sir.
Q. Will you be good enough to look at those samples and state whether those are millinery ribbons or not; have you seen them before?
A. I think I have, sir; yes, sir.
Q. Those are millinery ribbons?
A. Yes, sir.
Q. What is their chief use?
A. For trimming bonnets and hats.
Q. Are you interested in this controversy about the classification of millinery goods?
A. No, sir; not at all.
Q. You have no suits against the Government?
A. No, sir.
Q. Do you know hat ribbons for trimming men's hats?
A. We have no use for them.
Q. You don't deal in that class?
A. No, sir.

Cross examination by the DISTRICT ATTORNEY:

Q. Are you an importer?
A. No, sir.
Q. You buy from importers?
A. Buy from the importers.
Q. What is the commercial designation of those samples?
A. Ribbons.
135 Q. They always have been known as ribbons?
A. Yes, sir.
Q. They never have been commercially designated as hat trimmings, have they?
A. Not to my knowledge.

JOSEPH POTTER, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?
A. Manufacturer of straw hats and bonnets.
Q. Where?
A. North 5th street, Philadelphia.
Q. How long have you been in that line of business?
A. About 16 years.
Q. Do you deal in trimmings for such articles?

A. We use them.
Q. You buy them?
A. Yes, sir.
Q. And use them?
A. Yes, sir; for hats.
Q. Men's and boys' hats?
A. Misses' and children's hats.
Q. Of straw and other materials?
A. Of straw.
Q. Do you buy your ribbons at wholesale?
A. Yes, sir.
136 Q. Do you sell your trimmed hats at wholesale?
A. Yes, sir.
Q. What is the chief trimming that you use?
A. A number nine and a number twelve.
Q. Number nine and number twelve may mean the size of a man's hat. What is the commodity?
A. Ribbon.
Q. What do you mean by number nine and number twelve?
A. The width of them.
Q. The width is described by numbers, is it?
A. Yes, sir.
Q. Is that what you call the line of the ribbon?
A. Some would call it the line.
Q. About how wide would that be?
A. Number 9, I suppose, is about an inch and a half wide.
Q. And the widest how wide?
A. Well, probably two inches.
Q. You are speaking now of the ribbons?
A. Yes, sir.
Q. Now, just describe how you use them as trimmings.
A. Around the hat.
Q. Around the outside of the hat?
A. Yes, sir.
Q. For misses?
A. For misses and children.
Q. Are you familiar with the commodities that have been used as trimming for such hats during your entire mercantile experience?
137 A. Yes, sir.
Q. Just tell the jury what other staple commodities of that kind there are for that purpose.
A. We only use ribbons and chenille.
Q. And the ribbons have always been used in your experience as trimmings for that purpose, have they?
A. Yes, sir.
Q. And it has always been a staple commodity?
A. Yes, sir.
Q. Are you able to distinguish when you see such ribbons whether they are adapted to your purposes or not?
A. Such ribbons; yes, sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. Do you deal exclusively in hats?

A. Hats and bonnets.

Q. I understand you to say you don't sell ribbons, you simply buy them?

A. That is all.

Q. You sell them on the hats, of course; but I mean to say you simply buy them for the purpose of trimming your hats?

A. Yes, sir.

Q. In buying them, by what commercial designation do you buy
138 them; those samples that you have in your hand there are commercially known as ribbons?

Mr. TREMAIN. I object to that question. He has no samples. I haven't asked him about that.

Q. (Submitting samples.) What is the commercial designation?

A. I suppose ribbons. But these are goods I am not familiar with. We don't trim bonnets.

Mr. TREMAIN. This witness is called, your honor, in order that the record may have in it the proof that there are other kinds of ribbons that have their chief use in trimming other kinds of hats than the kind described. There will be some other testimony of that kind.

Q. What kinds of hats do you make?

A. Ladies', misses', and childrens'.

Q. Do you make men's hats at all?

A. No, sir.

Q. What materials are are these hats made out of, sir?

A. Straw.

Q. Straw exclusively?

A. Straw braid.

Redirect examination by Mr. TREMAINE:

Q. Do you use laces on them?

A. No, sir.

139 Recross examination by the DISTRICT ATTORNEY:

Q. Just describe to the court and jury what kind of trimming you use upon your hats that you sell.

A. No. 9 and No. 12 ribbon.

Q. What are they made of?

A. I suppose part of them are satin—satin and cotton mixture.

Q. Some of them silk?

A. Part silk, I suppose.

Q. I understood you to say the chief value of these ribbons was silk?

A. I couldn't say.

Q. Who do you buy them of?

A. C. M. Vonbar, of New York.

Q. What is their business?

A. Ribbons.

Q. Fancy or plain?

A. We use chiefly plain ribbons.

Q. And you buy them as ribbons?
A. Yes, sir.
Q. And that is their commercial designation?
A. Yes, that is what they are called, I believe.

By Mr. TREMAINE:

Q. Do you trim boys' hats?
A. Some boys'—small boys'; children's, we call them.

140 WILLIAM A. PIERCE, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?
A. I am a buyer.
Q. For what house?
A. Strawbridge & Clothier.
Q. Where do they do business?
A. 8th & Market streets.
Q. Philadelphia?
A. Yes, sir.
Q. Has your experience extended over millinery commodities?
A. No, sir.
Q. Hatter's commodities?
A. No, sir.
Q. Over ribbons?
A. Ribbons.
Q. Do you know what they are used for?
A. Well, we buy them and sell them; that is all I know about ribbons.
Q. What do you buy and sell them for; for what use.
A. All purposes that ribbons can be used for—trimmings.
Q. Are ribbons used for any other purpose except for trimmings?
A. I suppose you would call trimming a basket trimmings, wouldn't you?
Q. I don't call it at all.
A. Well, taking that sense, they are used only as trimmings.
Q. What is the chief use of the ribbons you have dealt in?
A. Why, for millinery purposes, I suppose.
141 The DISTRICT ATTORNEY. Not what you suppose, but what you know, Mr. Pierce.
The WITNESS. Well, I don't know.
The DISTRICT ATTORNEY. Then always say you don't know; it is always the safest course.
The WITNESS. I don't know.

By Mr. TREMAINE:

Q. (Resuming.) Can you tell a millinery ribbon when you see it?
A. I can tell what is used as a millinery ribbon to-day.
Q. How long has your experience enabled you to make that discrimination?
A. About ten years.
Q. Have there always been millinery ribbons within your commercial experience?

A. Yes, sir.

Q. If I show you samples of ribbons, would your commercial experience enable you to tell whether they are millinery ribbons or not?

A. Yes, sir.

Q. Is there a class of ribbons that have their chief use as trimmings for making or ornamenting hats or bonnets?

A. Yes, sir.

Q. Has that always been so during your commercial experience?

A. It has.

142 Q. Will you please look at these ribbons and say whether they are millinery ribbons or not, if you can tell?

A. Yes, sir; I class them as millinery ribbons.

Cross-examination by the DISTRICT ATTORNEY:

Q. Mr. Pierce, what is the name of your house?

A. Strawbridge & Clothier.

Q. Do you buy and sell the ribbons that are purchased and sold by that house?

A. I buy them.

Q. Do you import any direct?

A. Not many; no, sir.

Q. You buy them simply as ribbons, do you not?

A. Buy them simply as ribbons.

Q. You don't know what they are sold for, of your own knowledge?

A. No, sir.

Q. You simply buy the goods for the house?

A. That is all.

Q. And that particular commodity. Do you buy other commodities as well?

A. Oh, yes.

Q. You are a general buyer?

A. General buyer.

Q. Then your knowledge of this case, so far as your own personal observation goes, is simply what the thing is called that you buy?

A. That is the idea.

143 Q. And you buy it as ribbon, do you not?

A. I do.

Q. And the articles that you buy are sold indiscriminately from the counters of Strawbridge & Clothier.

A. Yes, sir.

Q. I suppose there is no doubt but what the commercial designation of the samples that you have in your hand in 1883 and now was and is ribbons, is it not?

A. That is all I have known them as.

Redirect examination by Mr. TREMAIN:

Q. You buy a great many other kinds of ribbons besides millinery ribbons, do you not?

A. Yes, sir.

Q. What other kinds?

A. I buy all kinds of ribbons that are in use. What they are used for

I don't exactly know. But to-day this kind of ribbon I buy, catering to the millinery trade.

Q. What other kinds?

A. Well, I buy satin, grosgrain; I buy velvets, and all classes of ribbons that are manufactured.

144 CHARLES H. DUNGAN, affirmed and examined.

By Mr. TREMAINE:

Q. Where do you do business?

A. 715 Arch street.

Q. What is the name of the house?

A. Owen, Dungan & Co.

Q. Are you familiar with the class of commodities that are used as trimmings or ornamenting hats and bonnets?

A. Yes, sir.

Q. Have there been such staple commodities during your trade experience?

A. Yes, sir.

Q. How long has your experience in such commodities extended?

A. About 15 years.

Q. What are some of the trimmings that are used chiefly for making or ornamenting hats and bonnets?

A. Ribbons, laces, feathers.

Q. Are ribbons the chief trimmings used for that purpose?

A. They are at the present time.

Q. Have there always been certain quantities of ribbons that have been staple commodities for that purpose?

A. Yes, sir.

Q. Have you bought and sold such trimming ribbons at wholesale?

A. Yes, sir.

145 Q. Does your house sell them?

A. Yes, sir.

Q. On the bonnet and off the bonnet?

A. Yes, sir.

Q. For what other trimmings are ribbons used?

A. We sell them for various purposes—for fancy work in addition to millinery purposes.

Q. Can you tell which are millinery ribbons when you see them.

A. Yes, sir.

Q. Have you always been able to tell which ribbons are millinery ribbons during your trade experience?

A. Yes, sir.

Q. Will you be good enough to look at those samples and tell us whether they are millinery ribbons or not?

A. I should think at least three-quarters of those were used for millinery purposes. I should think the majority of them are used for millinery purposes.

Q. You mean the chief use?

A. At least 75 per cent., I should judge, were used for millinery purposes.

Q. You mean of all the samples?

A. Yes, sir.

Q. The principal use of all the samples of about 75 per cent. of them is for millinery purposes?

A. Yes, sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. Now, will you be kind enough, as long as my friend did not
146 do it—I understand you to say that 75 per cent. of these ribbons are used for millinery purposes?

A. To the best of my knowledge.

Q. Now, will you be kind enough to point out the 25% that are not?

Mr. TREMAIN. He did not mean of the samples.

A. No; I could not do that.

The DISTRICT ATTORNEY. I so understood him.

Mr. TREMAIN. I so understood him at first, but he corrected it.

Q (Resuming.) Then I understand I am wrong; that you do not mean that the use of these ribbons was 75% for millinery purposes?

A. I should judge so. Some of them would be used for other purposes, and also for millinery.

Q. Well, I suppose, as a matter of fact, that the styles change?

A. Yes.

Q. Rapidly?

A. Yes.

Q. And a ribbon that to-day may be sold to a milliner for the purpose of trimming a bonnet in January is not used for that purpose; is not that so as a matter of fact?

A. That class of ribbons certainly varies, and soon goes out of style?

Q. What are they used for?

A. Trimming the following season.

147 Q. Now, as a matter of fact, are not these ribbons that go out of style used for a great many different purposes?

A. Not to my knowledge.

Q. Well, have you any knowledge on the subject outside of your own business?

A. Well, I couldn't say——

The COURT (interposing). If he hasn't any knowldge you don't want him to answer.

The DISTRICT ATTORNEY. No; that is just what I want to find out, if the court please.

A. I couldn't say.

Q. Very well. If you don't know, that ends it. If you don't know, how are you able to say or to limit the use to 75% for millinery purposes, if you really don't know outside of your own business?

A. I should state that those ribbons are used for the trimming of hats and bonnets.

Q. Yes; I understand you to have already stated that?

A. And some of them might possibly be used for other purposes.

Q. But you will remember that you have already stated on the stand that the use of some of these ribbons was at least 75%, using that as a measure, for millinery purposes, and you have already answered me, and stated that you do not know what uses ribbons could be put to, because you had had no experience in it.

148 Mr. TREMAIN. Did he say that?

The DISTRICT ATTORNEY. I so understood him.

Q. (Continuing.) Now I ask you how are you able to fix 75 % as the limit?

A. I can not answer the question.

Re-direct examination by Mr. TREMAIN:

Q. Upon what do you base that judgment?

A. Upon the sale of the goods that we make to our customers who use that class of ribbons.

Q. You sell to all kinds of customers, don't you?

A. Yes, sir.

Q. When they go out of style they cease to have such value as staple commodities as they had before, do they not?

A. To a certain extent.

Q. Now when they are fresh commodities does their value depend upon their chief adaptation for milinery purposes?

A. Yes, sir.

Q. Have you any interest in this suit?

A. No, sir.

149 SIGMUND ROGGENBURGER, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. I am a designer and attend to the trimming of woolen caps and goods.

Q. Are you familiar with the class of articles that are used for trimming caps or hoods or bonnets?

A. I am.

Q. Do you know the commodities of that kind?

A. Well, they are ribbons, principally, and feathers. We use some chenille ornaments, woolen ornaments.

Q. Ribbons, principally?

A. Principally.

Q. How long has your experience extended over that class of commodities?

A. Well, I have been in the millinery business before this about twenty years.

Q. Has there always been a class of staple commodities that had their substantial value in commerce because of their adaption to trimming hats and bonnets?

A. There has.

Q. And the chief material of that class, I understand you to say, are ribbons?

A. Ribbons, principally.

Q. Are you able to tell what is millinery ribbon when you see it?

A. I think I am.

150 Q. Will you describe how these ribbons are used on hoods?

A. On hoods we use principally plain ribbons mostly.

Q. You manufacture them, do you?

A. We manufacture hoods; yes, sir.

Q. And you put the ribbons on, do you not?
A. Put the ribbons on.
Q. Just explain how you do that.
A. Well, they are made into bows and into various shapes. I have samples here.
Q. Show us how it is done if you have a sample here.
A. (Exhibiting a specimen.) That is the general way of putting them on. Some are still fancier and some plain, a single bow.
Q. Those are trimmed with ribbons, are they?
A. Yes, sir.
Q. They are the only trimmings on them, are they not?
A. That is the only trimming on caps, except the lace in the face here [indicating].
Q. How many of those do you trim in a year?
A. Oh, thousands dozens.
Q. Are those hoods or bonnets?
A. Those are hoods; children's caps, we call them.
Q. Hoods and caps both?
A. Both.

Q. Now, if you think you can tell a millinery ribbon, will you
151 be kind enough to look at these samples and tell us whether those samples are millinery ribbons?

A. Yes, sir.
Q. They are?
A. Yes, sir.
Q. What is the chief use of those ribbons?
A. The chief use, I should say, was for trimming hats and bonnets, children's caps; that is, plush caps similar to those.

Cross-examination by the DISTRICT ATTORNEY:

Q. (Submitting specimen produced.) Well, this ribbon is quite different from the other in the respect that this is not a bonnet ribbon?
A. It is a plain ribbon.
Q. Now, a ribbon like this is frequently used to tie up bouquets, is it?
A. Yes, sir.
Q. And for various purposes about a house?
A. Yes, sir.
Q. Is that a domestic or imported ribbon?
A. That is a domestic ribbon.
Q. Well, you know, I suppose?
A. As far as I can judge. I couldn't tell you exactly what that is.
Q. (Submitting samples produced.) You wouldn't put those ribbons or ribbons like these on hoods, would you?
152 A. No; they are used for millinery—bonnets.

Redirect examination by Mr. TREMAIN:

Q. What proportion of ribbons such as those are used for other purposes, excepting for trimming hoods or bonnets or hats; that is to say, as far as your experience as a merchant goes, what proportion of such commodities as these are used for trimmings?
A. Of those plain ribbons I should think about forty per cent. are

used for trimming dresses; that is, for making bows on wrappers and tying up these fancy articles for sitting-rooms.

Q. The rest are used for trimming bonnets and hoods and millinery purposes?

A. Millinery purposes.

Recross-examination by the DISTRICT ATTORNEY:

Q. How are you able to base your estimate of 40 %; have you taken into calculation the various uses that are made of ribbons of that kind?

A. Yes, sir; that comes partly under my head of designer at the place I am. I look to the styles, the general dress, and get up of a person in general—of a lady or child.

153 Q. But certainly you are not able to give us statistics of the styles of ribbons of that kind used by people in the furniture business and people in the flower business and dressmakers?

A. I couldn't attempt it.

Q. Therefore I ask how are you able to accurately say that 40% of the use of ribbons like that is for purposes other than that of putting on hats?

A. It is from my general observation; the way that I have seen it sold.

Q. Yet you say you are not able to tell how much is used for the purpose of dress trimmings or how much is used for the purpose of the ornamentation of houses or how much for the use of bouquets?

A. Well, for bouquets and houses and such things ribbons are used spasmodically. There are seasons in the year when they are not worth two cents.

Q. So I understand; but is it not also true that these ribbons are used spasmodically for bonnets?

A. No, sir.

Q. Don't the styles change?

A. The styles of ribbons change, but they are always used for bonnets, and when they are out of date they are sold for a song.

Q. But the ribbons you have before you and the ribbons you have testified about, don't the uses to which they are put change with the fashions?

A. Yes, sir; to a certain extent.

154 Q. The same as any other kind of ribbons?

A. Yes, sir.

By Mr. TREMAIN:

Q. The style changes, but the ribbon don't?

A. The style changes next season and the ribbon isn't worth anything.

Q. When they are out of date their commercial value for trimming is lost?

A. Yes, sir; they stand at one-third of their actual worth.

By the DISTRICT ATTORNEY:

Q. What is the commercial designation of the article?

A. A ribbon.

By Mr. TREMAIN:

Q. Have you any interest in this controversy?

A. No, sir.

At this point (4 o'clock p. m.) the court adjourned until 10 o'clock tomorrow morning.

155 U. S. circuit court, eastern district of Pennsylvania. October term.

WANAMAKER
vs.
CADWALADER.

Before Hon. William McKennan, justice, and a jury.

SECOND DAY.

PHILADELPHIA, *Thursday, October 4th*, 1888.

Same appearances.

LOUIS STEIN, sworn and examined.

By Mr. TREMAIN:

Q. What is your place of business?

A. 7 North 7th street.

Q. And what is the character of your business?

A. Dry-goods commission merchant.

Q. Are you familiar with the commodities that are used for trimmings?

A. Yes, sir.

156 Q. Do you know the staple commodities which are used as trimmings for hats and bonnets?

A. I do.

Q. What are the staple commodities that have always been used for trimming hats and bonnets?

A. Birds' feathers, flowers, silks, satins, feathers, &c.

Q. Do you know millinery ribbons when you see them?

A. I do.

Q. Do you know bonnet ribbons and hat ribbons when you see them?

A. I do.

Q. How long has your experience extended over that class of staple commodities?

A. I have been in the millinery business up to 1880. I am not in that business at all now; that is, not in any business connected with ribbons at present.

Q. But before 1880?

A. I have been 13 years in the business, retail and wholesale.

Q. The millinery business is a specified part of trade, is it not?

A. Yes, sir.

Q. There are a great many houses engaged in the millinery trade at wholesale?

A. There are.

Q. And they generally deal in the staple commodities you have described?

A. Yes, sir.

Q. I show you some samples of ribbons and ask you whether you can tell whether they are millinery ribbons or not; are you able to

157 do so?

A. I think so.

Q. Will you please tell the jury whether those are millinery ribbons or not?

A. (After examining samples.) They are millinery ribbons.

Q. What are they chiefly used for?

A. Trimming hats, these ribbons are.

Q. Men's hats or women's hats?

A. Women's hats.

Q. You mean by that bonnets, don't you?

A. Bonnets or hats; yes, sir.

Q. There are hats for women as well as for men, are there not?

A. There are.

Q. And all women's hats are not called bonnets, are they?

A. No, sir.

Q. And all women's bonnets are not called hats, are they?

A. No, sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. What business are you engaged in now, Mr. Stein?

A. I am in the dry goods commission business.

Q. How long has it been since you bought and sold ribbons of
158 any kind?

A. 1880, sir.

Q. Well, the fashions have changed a good deal in regard to trimmings for ladies' hats, have they not?

A. They have.

Q. Do you remember when they were trimmed almost exclusively with surah silk?

A. I remember times in business, you know, where ribbons have been used less for trimming hats and ties, than they have been used more for trimming hats.

Q. Well, at the times when they were used very little for trimming hats, then their chief use was for some other purpose, was it not? There is no doubt about that as a business proposition, I take it.

A. Yes, sir.

Q. Then last year, when they used surah silks for trimming hats, the chief use of ribbons was not for trimming hats, was it? You don't know anything about that?

A. I do. I am not engaged in the business now myself. My business connections are such that I am thrown in with people that use millinery goods.

Q. Do I understand you to assert as a proposition that last year hats were chiefly trimmed with ribbons?

A. In my experience, ribbons were chiefly used for trimming hats.

Q. Then do I understand you to say also that last year surah silks were not the chief ornaments for hats?

A. You do; yes, sir; that is my opinion.

159 Q. That ribbons were?

A. Yes, sir.

Q. You are not very familiar with the varying changes and fashions since 1880, so far as the ornamentation of ladies' hats is concerned?

A. I am familiar.

Q. You haven't been in the business?

A. I am not in the business now, but the other class of goods I sell are sold to people that deal almost exclusively in them.

Q. What do you mean by millinery goods?

A. I am selling velvets and plushes to people who deal in millinery goods, and I find out, or cause to be found out, what is generally used every season for trimming hats.

Q. Are you selling feathers and laces and silk handkerchiefs?

A. Yes, sir.

Q. Do you remember when bonnets were mainly trimmed with silk handkerchiefs?

A. I don't remember any season when they were mainly used. I remember seasons when handkerchiefs have been used.

Q. What is the difference between a ribbon used for trimming a hat and a ribbon that is used for trimming a dress?

A. Well, there are seasons when ribbons that are used for trimming hats can not be used for any other purpose. There are seasons again when ribbons which are used for trimming hats are also used for
160 other purposes.

Q. No doubt about that, is there?

A. No, sir.

Q. In other words, as I understand it, the uses to which ribbons are put change with the fashions?

A. Yes, sir.

Q. Now, you know those samples that you have in your hand as ribbons, do you not?

A. Yes, sir.

Q. They are commercially known as ribbons?

A. Ribbons; yes, sir.

Q. And only ribbons. That is the commercial designation of them, is it not?

A. As ribbons; yes, sir.

Q. Bought and sold as such?

A. Bought and sold for ribbons.

Q. And when a ribbon is adapted for trimming a bonnet, when it is used as such, it becomes a millinery ribbon; is that it?

A. Please repeat that.

Q. I say that when a ribbon is bought that is adapted for trimming a hat and it is used for that purpose, it becomes a millinery ribbon; is that it?

A. Yes; it is.

Q. And not until then?

A. Well, I can't answer that question yes or no.

Mr. TREMAIN. Well, answer it as you should.

The DISTRICT ATTORNEY. I am entitled to a categorical an-
161 swer, and he can make his explanation afterwards.

Mr. TREMAIN. I am entitled to have his answer.

The DISTRICT ATTORNEY. I beg your pardon; I am entitled to my answer first.

A. (Resuming.) It becomes a millinery ribbon; that is, it would be called a millinery ribbon. I don't know how it is used. If it is used exclu-

sively for that purpose and no other, else I wouldn't call it a millinery ribbon. I wouldn't call the plain ribbon for trimming a dress, as a hat, a millinery ribbon. I wouldn't call this a millinery ribbon——

Q. (Interposing.) Well, you have been examining those samples carefully?

A. Well, I have examined most of them pretty carefully.

Q. Don't you call that a plain ribbon?

A. No, sir; I do not. A plain ribbon is a ribbon that has no fancy edge or anything fancy about it.

Q. (Indicating.) You call that a fancy one, do you not?

A. Yes, sir.

Q. And that is the title of these ribbons, is it not—fancy ribbons?

A. If I would call them ribbons I would call them fancy ribbons.

Q. (Exhibiting a hood.) What do you call that [indicating]?

A. That is a plain satin grosgrain ribbon.

162 Q. That is the title of that ribbon?

A. That is the title of that ribbon.

Q. Known as such to the trade?

A. Known as such to the trade—as satin grosgrain ribbon.

Q. Do you call that a millinery ribbon [indicating] within your definition of the phrase?

A. I don't know such a word as "millinery" ribbon.

The DISTRICT ATTORNEY. Neither do I.

Redirect examination by Mr. TREMAIN:

Q. What has always been, during your commercial experience, the chief use of ribbons generally?

A. They are chiefly used for hats and bonnets.

163 HENRY L. STRAUSS, sworn and examined:

By Mr. TREMAIN:

Q. What is your occupation?

A. The millinery business.

Q. Well, what is the millinery business?

A. Selling hats, flowers, ribbons, and so forth.

Q. Do you know the commodities that are used as trimmings for hats and bonnets?

A. I do.

Q. What are the staple commodities so used?

A. Well, they use ribbons, laces, flowers, and feathers.

Q. What are the principal bonnet trimmings that have been staple commodities during your trade experience?

A. That depends a great deal upon the style.

Q. The particular style?

A. Yes, sir.

Q. Well, what are the other trimmings which you have not mentioned, if any?

A. Well, there is nothing particularly used.

Q. Those are the principal?

A. The principal ribbons.

Q. Those articles have always been staple commodities as trimmings for making or ornamenting hats or bonnets, have they not?

A. Yes, sir.

164 Q. Have you bought and sold ribbons at wholesale?

A. I have.

Q. How many years has your experience covered that class of trimmings?

A. 24 years.

Q. What has been the chief use of ribbons during your experience?

A. Fancy ribbons.

Q. I ask what has been the principal use of ribbons; what are ribbons chiefly used for?

For hat trimmings.

Q. That is their chief use?

A. Yes, sir.

Q. Has that always been so during your experience?

A. Yes, sir.

Q. And do you deal in hat ribbons that are put on men's hats?

A. I do not.

Q. Do you deal in hat ribbons that are put on women's bonnets?

A. I do.

Q. Have there always been staple commodities that have been bought and sold at wholesale to use on women's bonnets?

A. There have.

Q. Can you tell a bonnet ribbon when you see it?

A. I ought to.

Q. Will you please look at these samples and tell the jury whether they are bonnet ribbons or not?

A. (After examining samples.) Yes; I would call any one of those ribbons mostly used for trimming hats and bonnets, to the best of my knowledge.

165 Q. Is that the chief use of the goods represented by those samples?

A. Yes, sir.

Q. Have you any interest in this case?

A. I have not, sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. What is the name of your firm?

A. Strauss, Tanhausser & Co.

Q. Are you in business in this city or in New York?

A. In this city, sir.

Q. You have been in the business for a long while?

A. Yes, sir.

Q. And you are quite familiar with the articles that are used to trim hoods, and hats, and bonnets?

A. I am, sir.

Q. What is the commercial designation of those samples that you have in your hand?

A. I call them fancy bonnet ribbons.

Q. You call them fancy bonnet ribbons?

A. Yes, sir.

Q. Do you mean to say that they are commercially called that, or are they simply called ribbons?

A. You can call them ribbons, you can call them fancy——

Q. (Interposing.) Never mind what I can call them, because
166 what I can call them has no effect. I want to know what you call them, and what the trade call them.

A. I call them fancy ribbons.

Q. Leaving the bonnet out, "fancy ribbons?"

A. Yes, sir.

Q. That is what they are known as to the trade?

A. They are.

Q. And, as I understand you, ribbons of that kind are, according to the demands of fashion, sometimes used to ornament hats?

A. Yes, sir.

Q. And that is about all you say, is it not?

A. I say that any of those ribbons containing those samples are principally used—I will say seven-eighths, if not more—for the ornamental trimming of hats and bonnets, &c.

Q. And that these are principally used, as you say, or were principally used, for ornamenting hats?

A. Trimming a hat.

Q. Were they used for other purposes?

A. Not that I know of.

Q. Will you be kind enough to look at this hood and tell me what it is ornamented with?

A. Well, this is a plain satin and grosgrain ribbon.

Q. Yes; but that is not the only ornamentation on that hood, is it? What is this here, the principal part; what do you call that?

A. That is wool.

167 Q. Now, that is what the goods are made of. You know what I mean. What are those blue ornaments on it made out of?

A. Silk.

Q. What kind of silk?

A. Skein silk.

Q. Then that hood is ornamented with skein silk, isn't it?

A. It seems so.

Q. Would you call that a millinery silk because it is used for ornamenting that hood?

Mr. TREMAIN. Objected to. There is no claim on that.

The DISTRICT ATTORNEY. Of course there is no claim on it, but you claim that because it is used for ornamenting a hat, therefore it comes within the purview of the section under which you are claiming. My contention is just the reverse of that, and I think I have the right to show that by this witness.

Mr. TREMAIN. I am afraid you do not understand our contention.

The DISTRICT ATTORNEY. Probably that may be; probably not as well as yourself; but, as I understand it, it is that the ribbons you have produced should be taxed only 20% because tney are used for trimming and ornamenting hats.

Mr. TREMAIN. That is the proposition.

The DISTRICT ATTORNEY. That is your proposition. Now I propose to show by this witness that other things that are im-
168 ported and that are made of silk are used for making or ornamenting hats and yet they are not called trimmings by anybody.

Mr. TREMAIN. What they are called is of no consequence.

The COURT. The question is what are these principally used for.

The DISTRICT ATTORNEY. I think, if your honor please, that I have the right, as that is their chief contention, and is given as a reason why they should be sustained, that this ribbon comes within the meaning of the statute because it is used for that purpose; that that is the predominant use. At least that is their testimony. Now I think that it is proper for me to show to this jury that although they use a commodity made of silk for making and ornamenting a hat, that that which is always silk is not called a trimming and that it is proper for them to draw an inference from the fact that it does not follow because a thing is put on a hat at a particular season that therefore it becomes a trimming within the meaning of the act.

The COURT. It is because they are so used and so regarded.

The DISTRICT ATTORNEY. That I understand to be their proposition. Now, I claim that I have the right to show that that is not a good reason.

169 The COURT. It may be a good reason or a bad reason. What is the fact?

The DISTRICT ATTORNEY. Now, I propose to show that skein silk is used for ornamenting hoods and hats, and yet is not called by anybody a hat trimming.

The COURT. That is that tends to show that that is not so.

The DISTRICT ATTORNEY. I contend that their proposition, however, is not a sound one. I will ask the question and let your honor rule it out.

The COURT. Ask your question.

Q. Now, the question is whether this skein silk is not used for the purpose of ornamenting hoods of the kind of which this is a sample, and whether by reason of that use it is called a millinery trimming.

Mr. TREMAIN. We think that belongs to the affirmative.

The COURT. Suppose something else is put in a bonnet and called by that name, and therefore it is unreasonable called by that name. The question is what is the fact, how is it characterized?

The DISTRICT ATTORNEY. As I understand the question, the chief contention, as we claim, is what is the commercial designation of the

170 article.

The COURT. They have a right to show the principal use in which this article is employed.

The DISTRICT ATTORNEY. As a method to enable the jury to arrive at what is the meaning of the statute.

The COURT. Yes. To show that something else is put upon the bonnet that is not so called, does not help the question.

The DISTRICT ATTORNEY. I will not argue any further; I will ask the question.

The COURT. Very well, the objection is sustained.

The DISTRICT ATTORNEY. And I note an exception, if your honor please.

Q. (Resuming.) Mr. Strauss, ribbons are used for trimming cloaks?

A. They are to some extent; yes, sir.

Q. For trimming underwear?

A. They are.

Q. For trimming baskets?
A. Yes, sir.
Q. For trimming tidies?
A. Yes, sir.
Q. Jewelry boxes?
A. Yes, sir.
Q. For badges?
A. Yes, sir.
Q. Book-marks?
A. Yes, sir.
Q. For neck-wear?
A. Yes, sir.
Q. For ladies' ties for the hair?
A. Yes, sir.
Q. For confectionery boxes and other fancy articles also?
A. Yes, sir.

171 Q. For trimming bouquets?
A. Yes, sir.
Q. For curtains?
A. Yes, sir.
Q. For ruching?
A. Yes, sir.
Q. And for baby carriages?
A. Yes, sir.
Q. And for a number of other articles?
A. They are.
Q. Have you any knowledge on the subject of the quantity that is used for those various articles?
A. That depends a great deal upon the style; some years more and some years less.

Redirect examination by Mr. TREMAIN:

Q. Does the commercial value of a ribbon depend upon the use to which it is adapted?
A. It does.
Q. Are the ribbons represented by these samples adapted, commercially speaking, to any other use, except to trimming bonnets?
A. I would not call them so; no, sir.
Q. Now, on this hood, what is the principal trimming?
A. Ribbons.
Q. Is there any other trimming on that hood?
A. I am not familiar with any other article there, only the ribbon.
Q. Well, do you see any other trimming on the hood?
A. I do not.

172 Recross-examination by the DISTRICT ATTORNEY:

Q. Now, do I understand you to say, under oath, that that hat has no other trimming on it than those pieces of ribbons?
A. Yes, sir.
Q. That that hood is ornamented in no other way and has no other ornamentation on it, except those pieces of ribbon?
Mr. TREMAIN. He did not say that.

A. I say only in skein silk and ribbon with it.

Mr. TREMAIN. It has other ornamentations, but it has no other ornamentation upon it except the ribbon.

The DISTRICT ATTORNEY. That is a play upon words.

Mr. TREMAIN. It is not.

By the COURT:

Q. For what purposes are the ribbons on the sample which has been shown you principally used?

A. Those are fancy ribbons, as I call them. You can call then fancy ribbons or plain ribbon with water marks on them.

Q. For what purpose are they principally used?

A. For hats and bonnets.

Q. They may be used for other purposes?

173 A. Yes, sir; if persons decide to do so, they can do so.

ELIZABETH E. GALLAGHER, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. The millinery business.

Q. How long have you been familiar with the staple commodities that are used in the millinery business?

A. Ten years.

Q. Have you bought those commodities at wholesale?

A. Yes, sir.

Q. And sold trimmed and untrimmed bonnets?

A. Yes, sir.

Q. And do you use those commodities in trimming bonnets?

A. Yes, sir; principally.

Q. Well, what is the principal commodity that you have used for trimming bonnets during your millinery experience?

A. Ribbons.

Q. Has that always been so during your observation?

A. Yes, sir.

Q. Has that been the chief use of ribbons?

A. Chiefly; principally.

174 Q. Now, are you able to tell a bonnet ribbon from any other trimming when you see it?

A. Yes, sir.

Q. When you go in among a stock of ribbons you are able to tell which is a bonnet ribbon and which is not?

A. Yes, sir.

Q. Does a bonnet-ribbon depend for its commercial value on its adaption to the use of trimming hats?

A. It does.

Q. Could you tell by looking at some samples of ribbons whether their chief use is for trimming bonnets or not?

A. Yes, sir.

Q. Will you kindly look at the samples that are before you and state what their principal use is; I mean their commercial use?

A. The principal use is for bonnets and hats.

Q. And does the commercial value of the ribbons represented by those samples depend upon that use?

A. Yes, sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. What business did you say you were in?

A. The millinery business.

Q. Do you deal in that exclusively?

A. Exclusively.

175 Q. Do you trim dresses at all?

A. Not at all.

Q. Do you know whether ribbons of that kind are used for other purposes?

A. Sometimes they are.

Q. They are used for a great many purposes, are they not?

A. Yes, sir.

Q. Are you acquainted with the kind of ribbons, for instance, that are used in ornamenting jewelry boxes?

A. Yes, sir.

Q. Would you undertake to say that ribbons of that quality would not be used for ornamenting jewelry boxes?

A. Sometimes.

Q. Do you know the relative amounts of that quality that are used for different purposes?

A. What?

Q. Do you know what quantity of ribbons of that quality are used for ornamenting furniture?

A. Satin ones are usually used.

Q. Do you know the quality of ribbons that are used for trimming dresses?

A. Different qualities are used.

Q. Do you know what relative quantities of ribbons are used for trimming dresses?

A. I do not.

Q. Have you had any business experience in selling trimmings for dresses?

A. I have not.

Q. Then, as a matter of fact, you do not know whether ribbons

176 of that quality are used for hats?

A. They are chiefly used for hats.

Q. They are chiefly used, in your observation, for trimming hats; but do you know the quantity of such ribbons that are used for such purpose?

A. I do not.

Q. Therefore, as you do not know the quantities that are sold for other purposes, you do not know that ribbons of that quality are chiefly used for ornamenting hats?

Mr. TREMAIN. We object to that.

A. I simply know because I use them.

Q. Because the chief use that you make of them is in trimming hats; that is your only knowledge of the question?

A. That is all.

Q. Ladies very frequently trim their own bonnets, do they not?
A. Sometimes.
Q. Is it not a fact that they very frequently, if not generally, purchase silk in the piece and cut it to suit themselves and trim bonnets?
A. Not very often.
Q. That is done, however, is it not?
A. Sometimes.
Q. Do you do it all yourself?
A. Sometimes I do.

Q. When you purchase silk for the purpose of ornamenting your
177 hats, I understand, then, that sometimes you purchase it in the piece and cut it out of a width to suit the fashion?

A. That is used in many bonnets. The principal trimming is ribbon.
Q. But I am asking you now if the silk with which you trim bonnets is not often purchased in the piece and not in the ribbon form; that is so, is it not?
A. Yes, sir.
Mr. TREMAIN. What difference does that make?
The DISTRICT ATTORNEY. It makes a very great difference.
Q. How do you use a piece of ribbon to trim a hat?
A. Cut it and make it into bows.
Q. And for the purpose of cutting it and making it into bows, a piece of silk will answer the purpose just as well as in the ribbon form?
A. Not at all.
Q. Why not?
A. You can't make use of it in the same way.
Q. Can't you cut the piece of silk and turn it under the edges; is not that frequently done?
A. Occasionally.
Q. Where do you purchase most of your goods from?
A. Principally in New York.
Q. In purchasing your ribbons, do you purchase them under the commercial designation of ribbons and you don't order hat trimmings?
A. They are supposed to be used as hat trimmings.
Q. Yes, I know you use them, because it is your business to use them.

Mr. TREMAIN. Don't argue with the witness; ask questions.
178 The DISTRICT ATTORNEY. I want to be informed.

Q. You purchase them as ribbons?
A. Yes, sir.
Q. If you were to order hat trimmings they wouldn't know what you meant, would they?
A. If I ordered ribbons they would naturally send ribbons.
Q. No, but I say if you ordered hat trimmings they wouldn't know what you meant, unless you specified what kind of hat trimmings.
Q. Now you have testified that these ribbons can be used for other purposes. I want you to tell the court and jury what distinguishes them as millinery ribbons from any other purpose; what makes you call them peculiarly millinery ribbons?
A. Because they are used principally for millinery.
Q. Principally for millinery within your observation?
A. Yes, sir.

Q. Is there anything in the width that distinguishes it as a millinery ribbon?

A. All widths are used.

Q. Is there anything in the color?

A. No.

Q. Is there anything in the quality?

A. No.

Q. The quality, the width, and the color depend upon the fancy of the purchaser?

A. Yes, sir.

Q. And it varies from season to season?

A. Yes, sir.

179 Redirect examination by Mr. TREMAIN:

Q. It is a part of your business to become acquainted with the fashions and the demands of the market for trimmings, is it not?

A. Yes, sir.

Q. And that has always been an important factor in your business, has it not?

A. Yes, sir.

Q. Now, that has led you to familiarize yourself with all the staple commodities that are used for trimming bonnets?

A. Yes, sir.

Q. And when goods represented by these samples are used for other purposes than for trimming bonnets, such other use is exceptional, is it not?

A. Yes, sir.

Q. Now, when you trim a hat with the silk that is folded under, is that an exceptional method of trimming?

A. It is.

Q. It is to fill a special order, is it not?

A. Yes, sir.

Q. That would not be a commercial use of the trimming, would it?

A. No, sir.

Q. How many hats do you suppose you have trimmed up during your experience?

A. I really couldn't say.

Q. Or had trimmed up. Many thousands of dozens, haven't

180 you?

A. Yes, sir.

Q. And was ribbon the chief trimming that was used in all of them?

A. The chief trimming.

Q. Now, in consequence of your familiarizing yourself with the use of these staple trimmings, do you think that you would be likely to know if ribbons were diverted to other uses to any particular extent—a bonnet ribbon?

A. I think I would.

Q. Have ribbons represented by these samples been, within your observation, diverted to any other use than to trim bonnets to any extent?

A. Sometimes they are.

Q. To any considerable extent?

A. Not very much.
Q. Such diversion was exceptional, wasn't it?
A. Yes, sir.

Recross-examined:

Q. And your acquaintance with ribbons that are used in trimming jewelry-boxes and for tying up bouquets is very slight, is it not?
A. I don't know very much about it.

181 JACOB KENNEDY, sworn and examined.

By Mr. TREMAIN:

Q. What is your occupation?
A. Millinery goods.
Q. At wholesale?
A. Wholesale and retail.
Q. How long have you been in the millinery business?
A. Well, about 25 years.
Q. Where is your place of business?
A. 1404 Chestnut.
Q. Are you one of the largest millinery dealers in the city?
A. No, sir.
Q. Who are some of the largest dealers?
A. Kohn & Adler.
Q. You deal extensively?
A. Only in millinery.
Q. Are you familiar with the staple commodities that are used for trimming hats?
A. Yes, sir.
Q. What during your commercial experience have always been the staple trimmings used for bonnets and hats?
A. Well, ribbons, flowers, feathers, satins, velvets, &c.
Q. Do you know a bonnet ribbon when you see it?
A. Yes, sir.
Q. Has there ever been a time during your commercial experience when there has not been a staple bonnet ribbon?
A. No, sir.
182 Q. Are bonnet ribbons of all styles and grades at various times, used for millinery purposes, I mean?
A. Yes, sir.
Q. Can you tell when you see a ribbon whether its commercial value depends upon its use for trimming bonnets or not?
A. Yes, sir.
Q. That is the business of millinery dealers, is it not?
A. Yes, sir.
Q. Do they deal in articles that have their substantial commercial value because of their special adaptation to trimming bonnets?
A. Yes, sir.
Q. And ribbons is their staple commodity, is it not?
A. The principal feature.
Q. Now, does the value of a ribbon for commercial purposes depend on s use?
A. Yes, sir.

Q. Do you think you can tell when you see a lot of ribbons whether they are bonnet trimmings or not?

A. Yes, sir.

Q. I mean whether their substantial commercial value depends upon that use or not?

A. Yes, sir.

Q. Well, now, will you please look at the samples shown you and state what the chief use of those samples is?

A. (After examining samples.) These are only used for trimming bonnets.

Q. Does their commercial value depend on that use?

A. Yes, sir.

183 Q. How many suits have you been in against the Government in this matter?

A. I haven't any.

Cross-examination by the DISTRICT ATTORNEY:

Q. What is your name, sir?

A. Jacob Kennedy.

Q. What firm are you with?

A. 1404 Chestnut street.

Q. Do you import your ribbons or purchase them?

A. Well, we have imported a few of them and purchased them.

Q. Purchased them from wholesale dealers?

A. Yes, sir. Of late we have only purchased. We have ordered.

Q. I understand you to say that you deal exclusively in ribbons for millinery purposes?

A. Yes, sir.

Q. You sell hats, trimmed and untrimmed?

A. Yes, sir.

Q. Do you then know as a matter of fact what amounts of ribbons are used for other purposes?

A. I do not; very small.

Q. Can you tell the court and jury what qualities of ribbons are used, for instance, for ornamenting jewelry boxes?

A. No, sir.

Q. Or for trimming underwear?

A. No, sir.

Q. How, then, did you state to the jury that the only use of those ribbons was for trimming bonnets?

184 A. Simply because I know the style of ribbon we import and buy for bonnets and hats.

Q. I understand you, then, to say that it is because that is the only purpose that you use them for?

A. Yes, sir.

The DISTRICT ATTORNEY. I want the court and jury to understand this fully. He has made two statements.

Mr. TREMAIN. Ask questions.

Q. You stated in your examination in chief that the only purpose for which ribbons of that quality were used were for trimming bonnets, and you likewise stated that you knew nothing of the quality that were used for other purposes?

A. I did not say that.

Q. What did you say?

A. I say that those ribbons were, the style of them, used for bonnets.

Q. And I asked you to tell me the quantity used for other purposes.

A. I don't know.

Q. I know, but you said in your examination—if I am wrong I appeal to the stenographer on that point whether you didn't say that the only purpose for which ribbons of that quality were used was for trimming bonnets?

A. Of that quality?

Q. You stated that?

A. Yes, of the samples you showed me.

Q. And you likewise stated you did not know what qualities were used, for instance, for ornamenting jewelry boxes?

A. Not that style of ribbon.

185 Q. I want a categorical answer. Did you not tell me that you did not know what qualities of ribbons were used for ornamenting jewelry boxes?

A. No; for they can use any kind they want. As a general thing they don't use those kind of ribbons.

Q. Do you know that?

A. I know positively of that.

Q. How many jewelry boxes have you seen?

A. Well, I have seen some, but I haven't made it my business. I haven't gone into the details.

Q. Then you don't know the quantities of ribbons that are used for ornamenting jewelry boxes, do you?

A. Yes; I know they are plain satin and grosgrain ribbon, narrow widths.

Q. Do you know anything about the quality of ribbons used for trimming dresses?

A. Yes, sir; from observation.

Q. Do you mean to say that those ribbons are not used for trimming dresses?

A. I do. They can be used, but it would show very bad taste to use that kind of ribbon for trimming a dress or a jewelry box, or anything in that way.

Q. Suppose you explain to the jury what there is peculiarly in that ribbon that would make it unsuitable for trimming a dress that makes it suitable for trimming a hat. What is there in the color, for instance?

A. Well, we use all colors. We use the color to match a bonnet to trim it. For red velvet we take red ribbon to trim it with, and so on

186 with green or blue; but the style of those ribbons would show very bad taste to be used for anything else. I don't say they wouldn't use it; they might use very little of it.

Q. Don't the ribbon used on dresses suit the ribbon used on hats?

A. No, sir; not these styles. It would show very bad taste to trim any of these on a dress, for they are only hat and bonnet ribbons.

Q. Now, suppose you explain to the jury why that particular ribbon, for instance, is more suitable for a hat than a dress.

A. In the first place, it is a very expensive ribbon, and it was imported

for fine trade, stylish trade, a class of trade that we do—a fine trade, and this ribbon was imported for that purpose and no other; of course, there is nothing to prevent anybody from putting that ribbon on a dress if they choose. What that ribbon was imported for was bonnets or hats.

Q. Now, if you were purchasing ribbons of this quality, by what commercial designation would you buy them?

A. Fancy ribbons.

Redirect examination by Mr. TREMAIN:

Q. Is that pattern 313, which you spoke of, an expensive pattern?

A. Well, they are all fine goods, but I should judge that is
187 more expensive than most of them.

Q. That is an exceptional ribbon?

A. Yes, sir.

Q. Can you tell about the way bonnet ribbons generally come put up?

A. Well, they are put in bolts, generally.

Q. In what?

A. In bolts or rolls?

Q. In about how many yards?

A. Ten yards.

Q. And how are those other ribbons that are used for trimming dresses generally put up?

A. Well, they are put up the same length, only they are a cheaper grade of ribbon.

Q. A ribbon that is adapted for bonnet trimmings looses its value when diverted from that use for commercial purposes, does it not?

A. Yes, sir.

Recross-examination by the DISTRICT ATTORNEY:

Q. Don't people frequently purchase silk in the piece and trim their hats by cutting it to suit their taste as to width?

A. Very seldom.

Q. Do you not do it yourself?

A. Well, we don't do it one time in a hundred.

188 By Mr. TREMAIN:

Q. You do it for a special order then, don't you?

A. A special order. It is not the style.

Mrs. A. HELLER, sworn and examined.

By Mr. TREMAIN:

Q. Where is your place of business?

A. 45 North 8th street.

Q. Philadelphia?

A. Yes, sir.

Q. Are you in business there?

A. I am, sir.

Q. How long have you been in business?

A. About 20 years.

Q. What class of staple commodities do you deal in?

A. Millinery.

Q. Bonnet ribbons?
A. Yes, sir.
Q. What else does your house deal in?
A. Silks and velvets.
Q. Do you deal in bonnets?
A. We do.
Q. At wholesale?
A. Retail.
Q. You buy at wholesale?
A. Yes, sir.

189 Q. Have you been familiar with the staple commodity that has been used for trimming bonnets?
A. Ribbons principally.

Q. That has always been so, has it not.
A. Yes; always.
Q. Is there a class of ribbons that have their substantial commercial value because of their adaptation to trimming hats and bonnets?
A. Yes, sir.
Q. Can you tell when you see a ribbon whether its commercial value depends on that use or not?
A. I can.
Q. Can you tell when you see a ribbon whether its chief use is for trimming bonnets or not?
A. I can.
Q. Will you be good enough to look at these samples and say whether you think their chief use is for trimming bonnets or for trimming something else?
A. They are for millinery exclusively.
Q. Now, by millinery you mean for trimming hats and bonnets, do you not?
A. Yes, sir.
Q. Now, suppose you tell the jury what is a hat and what is a bonnet?
A. I would have to have the shapes to do that.
Q. By the shapes you mean the forms out of which the body of the hat or bonnet is made?
A. Yes, sir.
Q. They are both head dresses for men and women, hats and bonnets, are they not?
A. Yes—not bonnets.
Q. Do you deal in men's hats?
A. No, sir.

190 Q. You deal in women's hats and women's bonnets?
A. Only.

Q. And children's hats and bonnets, too?
A. Yes, sir.
Q. Do you sell the untrimmed bonnets, and also the trimmings that are used to put upon them?
A. Yes, sir.
Q. Separately?
A. Yes, sir.

Cross-examined by the DISTRICT ATTORNEY:

Q. What business are you in?

A. Millinery.

Q. You sell a great deal of ribbon, do you not?

A. We do.

Q. Do you buy it as ribbon?

A. Yes, sir.

Q. And you sell it as ribbon?

A. We do.

Q. You sell to people who make bonnets and people who want it for other purposes, do you not?

A. We do; for all purposes.

Q. Can you tell me to whom you sell the most; to people who want them for other purposes, or to those who want them only for bonnets?

A. For bonnets and hats principally.

Q. How do you know that?

A. From the quantity we sell.

Q. Do they always tell you what they want it for?

A. No, not generally; but we buy principally for that.

Q. You buy principally for persons who want to use ribbons for bonnets?

A. Yes, sir.

191 Q. You do not buy, then, for persons who want ribbons for other purposes?

A. Occasionally; not as much.

Q. You don't cater to that trade?

A. Not as much.

Q. Then you don't know what the demands of that trade are?

A. Not as much.

Q. You only know what proportion of your own customers want for millinery purposes?

A. Yes.

Q. Or for the purpose of putting on bonnets. Do you buy ribbons of that kind, such as you have there?

A. Yes, sir.

Q. You call them what?

A. Fancy millinery ribbons.

Q. Are they always called millinery ribbons?

A. They are to my knowledge.

Q. Not called fancy ribbons?

A. Yes, sir; both.

Q. Well, which the most?

A. Fancy millinery ribbons, for they wouldn't be good for anything else.

Q. But I am now asking you what they are called mainly?

A. Fancy millinery ribbons, according to my judgment.

Q. They are not called fancy millinery ribbons only?

A. Well the principle name is fancy millinery ribbons, according to my judgment.

Q. When you order them, how do you order them?

A. As I told you; as fancy millinery ribbons.

192 Q. You give your orders in that way, do you?

A. Yes, sir.

Q. And you do that, as I understand it, because your chief custom is that of people who make bonnets?

A. That is, as far as my judgment goes; yes, sir.

Q. When you get a ribbon that don't please your customers what do you do with it?

A. Do the best we can with it.

Q. You don't throw it away, do you? My friend here rather insinuates that it loses its commercial value. Now, I want to find out from you whether it does. What do you do with it?

A. Just as I have told you, the best we can.

Q. What is the best?

A. We try to sell it.

Q. And generally sell it?

A. Indeed we do.

Q. Now, when you sell ribbons to persons who don't want them to trim bonnets with do you make any deduction because of that reason?

A. No, sir; we have only one price.

Q. So that it does not make any difference as to what purpose it is used for, so far as its commercial value is concerned; you sell them for the same price.

A. Yes, sir.

Q. And when you buy ribbons you look over the stock in trade and see what is stylish and you select those ribbons which you think are most adapted to your trade, don't you?

A. Most decidedly.

193 Q. You don't care what they are called, do you?

A. No; we buy them for our use.

Q. When you use a ribbon to put on a bonnet do you put it on in the piece that way, or do you cut it in half and trim the bonnet?

A. Put it on in the piece.

Q. I understood from the previous witness that they cut them in half.

A. They cut them, but it would not do to cut them in half.

Q. How do you cut it, diagonally?

A. No; cut it crosswise.

Q. And then how do you make your piping when that is necessary?

A. We don't use pipings.

Q. (Submitting hood previously produced.) What do you call that?

A. A hood.

Q. Oh, I know that [indicating]. Is not that piping?

A. Yes; that has a cord and piping. But that is not a trimming that belongs to the make of the cap. The only trimming on that is the ribbon.

Q. I suppose that depends somewhat upon the taste of the buyer, don't it?

A. Not at all.

Q. Then, as I understand you, if you insisted upon it that that was not a trimming, the buyer would have no right to call it a trimming?

A. No, sir; the only trimming is the ribbon.

194 Q. Then this pretty work on the outside does not give any value to the hat?

A. No, sir.

Q. Does not increase the selling price of that hood?

A. No, sir.

Q. Then the things that sell that hood are these two ribbons and this pretty bow?

A. That is the ornamentation.

Q. But you say that does not help to sell the hood?

A. It does not help to sell the trimming part. It would not improve the ribbon any.

Q. It does not improve the ribbon, but does it improve the hood?

A. Well, that is a matter of taste to a certain extent. But it has nothing at all to do with the trimming. The only trimming to the cap is the ribbons.

Q. What do you call the inside part?

A. That is the lining.

Q. Has that anything to do with the trimming of the hat.

A. Not at all.

Q. Then as I understand it, and I want to understand you perfectly, the only trimming that this pretty hood has on it are these two ribbons?

A. That is all.

Q. And that the trimming of a hat, no matter how handsomely it may have ruching on it, or piping, or anything else, has no other trimming upon it than the pieces of ribbon that are on it?

A. Except the trimming.

195 Q. When you put a pocket handkerchief on a hat, what is that?

A. I wouldn't call it anything at all.

Q. You would not call that a trimming to a hat?

A. No.

Q. When a hat has velvet facing on it, what do you call that?

A. That is a trimming.

Redirect examination by Mr. TREMAIN:

Q. I understood you to say that when you had a ribbon that could not be used, so that it was not used for trimming, you did the best you could with it, didn't you?

A. I did.

Q. Does it sell as readily when it is not fit for use for hats as when it is fit to use for hats; do you get rid of the ribbons as easily?

A. They are suppose' to be suitable, or else we would not buy them.

Q. Have you any interest in this controversy?

A. Not at all.

Q. You were speaking of the trimming on this *coat* [in pencil, *hood*] when you answered about the trimmings, were you not?

A. Yes, sir.

Q. There are velvets that are used sometimes for trimming hats and bonnets, are there not?

A. Occasionally.

196 Q. There are feathers and flowers also, are there not, and all those are trimmings, are they not?

A. Yes, sir.

Q. Millinery trimmings?

A. Yes, sir.

THEODORE C. BERNBAUM, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Millinery goods.

Q. Where?

A. 928 Chestnut street.

Q. Philadelphia?

A. Philadelphia; yes, sir.

Q. What is the house?

A. The house is Smalley & Co., but it goes under the name of George W. Miles.

Q. The old firm?

A. Yes, sir; we are successors to George W. Miles.

Q. What line of commodities do you deal in at wholesale?

A. Millinery goods; velvets, ribbons, flowers, feathers, bonnets, and hats, trimmed and untrimmed.

Q. How long has your commercial experience covered that class of commodities?

A. About 18 years.

Q. Those are staple commodities, are they not?

A. They are, sir.

197 Q. Made of different materials?

A. Made of different materials.

Q. During your commercial experience, what has been the staple trimming used for trimming and ornamenting hats?

A. Well, we use everything, just as fancy may dictate, according to fashion.

Q. Name the principal trimming.

A. Velvets, ribbons, flowers, and feathers.

Q. Are there a class of ribbons that have their substantial commercial value because of their adaptation to use for trimming bonnets and hats?

A. Yes, sir.

Q. There have always been such staple commodities, have there not?

A. Yes, sir; always.

Q. You buy ribbon at wholesale?

A. I do, sir.

Q. Among large wholesale dealers in ribbons, are there staple bonnet trimmings?

A. Yes, sir.

Q. And all such dealers distinguish those trimmings from other trimmings, do they not?

A. They do, sir.

Q. One experienced in the trade can tell when he sees a sample whether it is such a staple commodity or not?

A. Unquestionably.

Q. Now can you tell when you see a bonnet trimming whether it is a ribbon that is chiefly used for ornamenting hats and bonnets or not?

A. I can.

198 Q. Will you be good enough to look at some samples that I show you and answer whether they represent ribbons that are chiefly

used for trimming hats and bonnets, or whether they represent some other class of ribbons?

A. (After examining samples.) Those are strictly used, I should judge, for millinery purposes.

Q. Have you seen those samples before?

A. Some of them; not all of them.

Q. Where have you seen them?

A. Well, they have been shown to me by the importers.

Q. The principal use of those ribbons, you say, is for trimming hats and bonnets?

A. For trimming hats and bonnets.

Q. Are there millinery publications adopted and used in the millinery trade giving information in respect to commodities in that trade?

A. There are.

Q. What are some of those publications; tell us about that?

A. Well, they will tell you whether ribbons are going to be worn—whether velvet ribbon is going to be worn.

Q. What kind of ribbon?

A. Velvet ribbon—the color and quality; whether it is fancy or plain ribbon. Merely fashion indications; that is all.

Q. Has that been so for the last few years, or has it always been so?

A. It has always been so.

199 Q. Has there ever been a time when ribbons were not chiefly used for trimming hats and bonnets?

A. That depends upon the fashion altogether.

Q. How has it been in your experience?

A. For the last few years they have been used for hat and bonnet purposes.

Q. Has that been the chief trimming for hats during the last few years or not?

A. It is generally the principal trimming. There has been other trimming, such as velvets and flowers. It depends upon the season of the year.

Q. Now, respecting ribbons generally, have they always been used chiefly for trimming hats, or chiefly for some other purpose?

A. Well, they have been used for other purposes.

Q. What has been the principal?

A. For dresses they have been used extensively. They have been used for fancy materials, ornamentation of fancy boxes, used for bouquets, and they are available in almost every way.

Q. Now, people experienced in the trade can pick out what ribbon is adapted to that use, and what ribbon is adapted to hats?

A. They can.

Q. That has always been so?

A. Always been so.

Q. During your experience?

A. Yes, sir.

Q. How did you ever see these particular ribbons used for any other purpose than for trimming hats or bonnets?

200 A. No, sir; I don't think so; I can't say so.

Cross-examination by the DISTRICT ATTORNEY:

Q. What is the commercial designation of those samples?

A. Well, we call these fancy ribbons, or fancy millinery ribbons.

Q. When the fashions require that bonnets shall be trimmed with feathers and flowers, then the chief use of these ribbons is not for bonnets?

A. I hardly think you could use them for anything else than bonnets.

Q. What kind of a store do you keep?

A. Millinery goods.

Q. Millinery goods only?

A. First-class millinery goods.

Q. You sell a good many ribbons, do you not?

A. Sell a great many.

Q. What comes within the category of millinery goods?

A. Well, velvets, ribbons, flowers, feathers. That is, about all ornaments.

Q. What kind of ornaments?

A. They may be jet.

Q. Beads?

A. Beads.

Q. Ruchings?

A. No; that is a different style of ornament. That comes under millinery goods. A ruching would come as a sort of commodity, just the same as we would sell a ribbon.

201

Q. When hats are trimmed with ruching in the front don't you call that a trimming?

A. It helps to form a trimming.

Q. Of course the hat is not completely trimmed until made as the designer intended it to be made?

A. *Yes, sir* [in pencil, No, sir].

Q. And the piping contributes part?

A. Yes, sir.

Q. And the feathers and the flowers and the little gold daggers, and where you want to put on a piece of ribbon that goes to make up the harmonious whole?

A. That helps to make the trimmed hat.

Q. As a matter of curiosity I would like to know whether you regard that ruching on that pretty little hood as a part of the trimming of that hood?

A. Yes; I consider that a part.

Q. Do you regard that as a hood?

The COURT. Do you regard that as a question of importance in this case?

The DISTRICT ATTORNEY. I think so. Do you rule it out?

The COURT. Is it a matter of any materiality at all what part of the hood that trimming is?

The DISTRICT ATTORNEY. I think so. I don't want to repeat the argument I made a few moments ago, but I think this jury will have to determine whether the articles that are now before them are trimmings or whether they were intended to be characterized as silk goods.

202

The COURT. Does that aid the jury in determining that question?

The DISTRICT ATTORNEY. I think that when I can show that some of the witnesses that were produced by the plaintiff do not agree with others,

and that there is a difference of opinion by certain things used in evidence, I do say it helps my contention.

Mr. TREMAIN. There is no difference of opinion.

The DISTRICT ATTORNEY. I don't want to have any discussion as to what is regarded as an immaterial point by your honor.

The COURT. The question is, what are these ribbons? Now, if something else is put upon the bonnet, it does not aid the jury any.

The DISTRICT ATTORNEY. Your honor will recollect that certain of the witnesses have said that trimming of the hats was enumerated articles. Now, this witness says certain other articles are trimmings, and I think I am entitled to know what the witness characterizes as trimmings, because it is that part of the section of the act that they claim under.

The COURT. I will try this plan. It will save time to go on rather than to discuss it.

203 Mr. TREMAIN. They all say that ribbons are trimmings.

The COURT. Oh, yes.

Q. What do you call those ends to that hat?

A. I call these ribbons.

Q. You call the material ribbons?

A. Ribbons; yes, sir.

Q. What do you call that material on bonnet strings?

A. I call them bonnet strings.

Q. You call them ribbons?

A. Yes, sir.

Q. Then the ribbon serves a twofold purpose; it serves as trimming and as what you call a tie string?

A. Yes, sir.

204 GEORGE WETTLAUFER, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Importing.

Q. What house?

A. Fleitmann & Co., 489 Broome street, New York.

Q. Does your house deal in ribbons at wholesale?

A. Yes, sir.

Q. They deal in imported and domestic ribbons, do they?

A. Yes, sir.

Q. You buy the ribbons abroad?

A. I have been over several times.

Q. How long has your experience extended over that class of commodities?

A. About five years.

Q. Are you familiar with the staple commodities that are bought and sold at wholesale for millinery purposes?

A. Well, not all of them; most of them.

Q. Which ones does your house deal in?

A. Our house deals in silks for millinery purposes, velvets, and ribbons. That is about all.

205 Q. Velvets for millinery purposes?

A. Yes, sir.

Q. What is the chief use, commercially, as far as your experience goes, for trimming commodities at wholesale?

A. They trim hats, hoods, bonnets, and all such things.

Q. Does the commercial value of a ribbon at wholesale depend upon the use to which it is adapted?

A. Certainly.

Q. If diverted to some other uses it looses its commercial value in part, does it not?

A. Yes, sir.

Q. There are staple ribbons that are bought and sold to be used as trimmings for hats and bonnets, are there not?

A. Yes, sir.

Q. Can persons experienced in the trade discriminate which ribbons those are?

A. They can, I think.

Q. Can you, as a buyer of goods, tell what is a bonnet trimming or not when you see a ribbon from time to time?

A. Yes, sir.

Q. Will you be good enough to look at the samples of ribbons that are shown you and say whether the goods represented by those samples are or are not bonnet trimmings?

A. (After examining samples.) Every one of them.

Q. What is their chief use?

A. To trim hats—ladies' hats.

Q. Have they any substantial commercial value as staple commodities at wholesale for any other purpose?

A. No, sir.

206 Q. Do you buy ribbons for men's hats too?

A. No, sir.

Q. Who is the man in your house that does that?

A. Well, I guess Mr. Fleitman buys them himself.

Q. Is he here?

A. *No* [in pencil, *yes*] sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. I understand you to say except for the purpose of trimming hats none of those ribbons have any commercial value?

A. I will tell you what I say about it. Nine out of ten of these will not be used for dress purposes, because they can't be used. I don't say that they are not, but they are very seldom used for anything else.

Q. Well, how do you know it?

A. For dresses there are generally only plain ribbons used.

Q. Have you sold ribbons like that?

A. Yes, sir.

Q. To whom?

A. To millinery houses.

Q. And only to millinery houses?

A. And only to millinery houses.

Q. Do you know what they do with the ribbons?

A. They buy them to sell them for millinery purposes.

207 Q. You don't know what they sell them for, do you? They keep a regular ribbon counter, don't they?

A. They do.
Q. And sell them to anybody who will buy them?
A. To anybody who will buy them.
Q. Now, do I understand you to say that if you can't sell a ribbon like that to a milliner the very moment you ascertain the fact that that ribbon has no value at all, it can't be sold?
A. Yes, sir; as soon as it isn't stylish for the millinery trade.
Q. Then what do you do with it?
A. Sell it for 25 cts. on the dollar.
Q. What are they called?
A. They are called ribbons.
Q. Any other title but that?
A. Well, no; that is all I know—as ribbon, bonnet ribbon.
Q. You buy them and sell them as ribbons?
A. Buy them and sell them as ribbons
Q. And because you sell them to milliners, who use them to trim bonnets, you say that they have no value outside of that?
A. No, sir; that gives them the value.
Q. What house are you in?
A. Fleitmann & Co.
Q. You are not a member of the firm, are you?
A. No, sir.
208 Q. I suppose you don't know whether they have brought a suit against the Government?
A. I honestly can't tell you. I was just sent over here to sell them.
Q. Do you know anything about bonnets?
A. Well, very little.
Q. You don't know what constitutes the trimming to a hat or bonnet?
A. Yes, I do know what constitutes the trimmings of a bonnet.
Q. State the trimmings of a bonnet or hat.
A. Ribbons, velvets, plushes, little ornaments.
Q. Feathers?
A. Feathers.
Q. Flowers and laces?
A. That is about it.
Q. Does your firm import any ribbons like these?
A. They do.
Q. Point them out.
A. Not any of those patterns; similar patterns.
Q. How long did you say you had been in the business?
A. About five years.
A. That would bring you to 1883?
A. About that.
Q. What time in 1883 did you go in business?
A. I think it was in the month of July.
Q. Well, that was after this act was passed. In what capacity did you go into the store?
A. Well, I was engaged there as boy.
209 Q. How long did you serve as boy?
A. I served as boy about three or four months; then I went to Europe to learn the manufacturing part of the business, &c.

Q. And how long did you stay there?
A. About 13 months.
Q. And then you came back?
A. And was put in the business as salesman.
Q. Well, how long have you been buying?
A. I have been ever since then, once; that is all.
Q. When you buy ribbons you buy them from silk factories, do you not?
A. From ribbon manufacturers.
Q. There are trimming factories, are there not?
A. I really don't know.
Q. Do you buy ribbons or do you receive them on consignment?
A. We buy and receive them on consignment.

Redirect examination by Mr. TREMAIN:

Q. Do you buy any domestic ribbons?
A. Yes, sir.
Q. Do you sell them?
A. The bulk of our business is domestic consignment.
Q. Silks and ribbons?
A. Our department is ribbons; but silks also.
210 Q. Your house is interested in the domestic production of ribbons and silks?
A. Yes, sir.
Q. Your dealings are all at wholesale?
A. Wholesale only.
Q. Are there any larger ribbon houses in the city then yours?
A. I suppose so.
Q. Well, how many do you suppose there are?
A. I don't know; I never saw the books of any of them.
Q. Are you among the leaders in that class of trade?
A. I suppose so.
Q. It is part of your business to know what makes ribbons marketable, is it not?
A. Yes, sir.
Q. Is it your observation or not that their marketable value depends upon the use to which they are adapted?
A. Yes, sir. For instance, next season they go to Europe and import ribbons that they expect will be worn on hats, and only that.
Q. Bought and sold for that purpose?
A. Bought and sold for that purpose.

Recross-examination by the DISTRICT ATTORNEY:

Q. I understood you to say, in answer to Mr. Tremain, that
211 you are interested in the domestic silk production; is that so?
A. We receive goods on consignment.
Q. Are the members of your house generally interested in the large ribbon manufactories of this country?
A. I think they are.
Q. In which factory?
A. The Pioneer Silk Company, of Patterson, N. J.
Q. What member of your firm is interested in that?

A. My father. He is not a member of the firm, but he is interested.
Q. What is his name?
A. Wettlaufer.
Q. Didn't I understand you to say that your father was interested in it?
A. He is, sir; but he is not a member of the firm.
Q. Of which firm?
A. Of Fleitmann & Co.
Q. He is not a member of the firm with which you are connected?
A. No, sir.
Q. Well, now I am trying to get at the interest of your firm in any silk factory in this country; you said they were interested in them?
A. None of the members; I don't say that; I wouldn't say that positively.
Q. You are only interested in them through your father?
212 A. I am an employé of the house as a salesman; that is all I am.
Q. You are not employed by the silk factory?
A. No, sir.
Q. Does the silk factory manufacture ribbons too?
A. Yes, they do.
Q. All kinds?
A. All kinds; in fact, I sell more domestic ribbons than imported ribbons; great many more.
Q. You sell more of the ribbons that are produced by your father's mill; is that it?
A. Yes, sir.
Q. What proportion of your business is domestic and foreign?
Mr. TREMAIN. Which business?
The DISTRICT ATTORNEY. The business in which he is interested.
The WITNESS. The ribbons?
The DISTRICT ATTORNEY. Yes.
A. I guess about two-thirds of them are domestic.
Q. And they are consigned to you as ribbons, I fancy, are they not?
A. Yes, sir.
Q. Just the same as the foreign ribbons are?
A. Yes, sir.
Q. The same kind of goods?
A. Well, yes; about the same.
Q. They sell for the same price?
A. Yes, sir.
213 Q. Mr. Wettlaufer, when you buy ribbon abroad and import it into this country, it is for the succeeding season, is it not?
A. Yes, sir.
Q. It is not then the prevailing fashion?
A. No, sir.
Q. Then it requires the fashion first to be set for the kind of ribbon to be used as an ornamentation for hats before it becomes a millinery ribbon, don't it?
A. No, sir; when you go over you only buy to make them for millinery purposes; no other purposes whatever.
Q. That is, you buy that or order that which you think will suit best those who buy ribbons for that purpose; is that it?

A. Yes, sir.
Q. And then you buy other kinds of ribbon as well, don't you?
A. No, sir; we buy them only for that purpose.

214 ROSA GERSON, sworn and examined.

By Mr. TREMAIN:

Q. Are you in business?
A. I am.
Q. What is your place of business?
A. North 8th street, Philadelphia.
Q. What class of commodities does your business experience cover?
A. Millinery.
Q. And by millinery commodities what do you mean?
A. Trimming for hats and bonnets.
Q. What are the principal staple commodities that are trimming for hats and bonnets?
A. Really there is nothing staple, unless it is the style, the fashion.
Q. What have been the principal trimmings during your business experience?
A. Ribbons, laces, velvets, flowers, feathers—whatever is the style.
Q. Those have been staple commodities?
A. At the time of the fashion.
Q. How long has your experience covered?
A. 16 years.
Q. Has that always been so?
A. Yes, sir.

215 Q. Can you tell what ribbons are valuable for use as trimming for hats and bonnets and what are not when you see them?
A. I can tell you what are fashionable ribbons for hats and bonnets at the present time.
Q. Can you tell which ribbons have value as commodities because of their use for trimming hats and bonnets?
A. I can.
Q. And which are not?
A. Yes.
Q. Do you know a bonnet ribbon when you see it?
A. I do.
Q. Will you please look at the samples and tell us whether those are bonnet ribbons or not?
A. (After examining samples.) They are.
Q. What is their chief use?
A. For millinery only.
Q. By millinery you mean for ornamenting and trimming hats?
A. Trimming hats and bonnets.
Q. Do you buy ribbons at wholesale?
A. Mr. Gerson buys them.
Q. He is in business with you?
A. Yes, sir.
Q. Do you make them up into hats?
A. I do.
Q. Do you deal in trimmed and untrimmed hats both?

A. Yes, sir.
Q. To a large extent?
A. Yes, sir.

216 Cross-examined by the DISTRICT ATTORNEY:

Q. I understood you to say in answer to Mr. Tremain that nothing is staple unless it is the style. Now, with what did they trim bonnets last year, chiefly?
A. With ribbons.
Q. And the year before?
A. I think it was ribbons.
Q. And the year before that?
A. I have forgotten.
Q. What about 1884?
A. Well, if I have forgotten 1885 I have certainly forgotten 1884.
Q. That may or may not be. What in 1883?
A. I can't remember.
Q. Then your memory only carries you back until 1886, and you say that during 1886, 1887, and 1888 the chief trimmings for bonnets were ribbons; is that so? You buy them as ribbons, I suppose?
A. Mr. Gerson buys.
Q. You sell them as ribbons?
A. I sell them as ribbons.
Q. To whom do you sell, chiefly?
A. To his customers; ladies, in general.
Q. Of course you do not ask each customer what they want the ribbons for?
A. No, sir.

217 Q. And when a customer comes in for fancy ribbons to trim these pretty boxes, you do not ask him if he wants to put it on a bonnet, do you?
A. I do not.
Q. Now, you know, as a matter of fact, that these fancy ribbons are used to trim all sorts of objects?
A. Yes, sir.
Q. But, of course, as your business lies in the direction of furnishing supplies to milliners, your information is chiefly gained from that source?
A. We sell ribbons of all kinds.
Q. (Indicating.) This is a watered ribbon, fancy ribbon?
Mr. TREMAIN. Which?
The DISTRICT ATTORNEY. Sample 231.
Q. That is a fancy ribbon like this?
A. That is a ribbon that can be used for different purposes.
Mr. TREMAIN. We can not ask questions about something that is not identified.
The DISTRICT ATTORNEY. I assure you it is not from any design to take any advantage of the witness or of you.
Q. What I want to get at, madam, is this, that there isn't any doubt but what these fancy ribbons are used for decorative purposes?
A. They are if they are the style.
Q. If the person who uses them for trimming boxes likes the ribbon?
A. Yes; if she fancies it.

218 Q. That is, if a person likes a particular ribbon, she buys it for trimming a bonnet?

A. Yes, sir; whether it is for trimming a bonnet or not.

Q. That is to say, they buy any kind of ribbons whether they are for trimming bonnets or not?

A. We can not tell what they will buy when they go in the store.

Q. That is what they call a millinery ribbon?

A. Well, no; there are certain ribbons that they call millinery.

Q. That is what they call millinery ribbons?

A. I suppose at the time it was bought for millinery ribbons, but I suppose it was used for boxes. At that time that that ribbon was bought it ought to have been bought for a millinery ribbon, but at present it is bought for that box, and it has decreased in its value.

Q. Being used for that purpose?

A. Decreased.

Q. Do you know who bought that ribbon?

A. I do not. It is violet and white.

The DISTRICT ATTORNEY. It is marked 390.

Q. Now, I understood you to say that that might have been bought for a millinery ribbon?

A. It might have been bought at the time of the fashion.

Q. And it might have been bought for something else?

A. Perhaps so.

219 Q. And does that same remark apply to—we will call this number forty?

A. The same.

Q. That it might have been bought for a millinery ribbon, or it might not?

When it was the style—the fashion.

Q. Now, what kind of a ribbon do you call that on box No. 20?

A. A ribbon.

Q. That is the only title it has?

A. Yes, sir.

Q. Well, if that was put on a bonnet?

A. It would be called a bonnet ribbon.

Q. But it is not called a bonnet ribbon until it is put on the bonnet?

A. Not at the present time.

Q. I want to know whether I am not right in saying that it does not become a bonnet ribbon until it is put on the bonnet?

A. If it is bought for that purpose at the time of the fashion.

Q. Then it depends upon the whim of the purchaser whether it is a bonnet ribbon or not?

A. *A.* It depends entirely upon the fashion of millinery.

Q. And the fashions change from season to season?

A. Yes, very often.

Q. Then that which was a bonnet trimming in the spring of 1887 might not be a bonnet trimming in the spring of 1888?

A. Not by any means.

Q. It would be something else then?

A. Certainly.

220 Q. Now, this box is called 6669. What kind of a ribbon do you call that?

A. It is ribbon.

Q. Only ribbon?

A. Ribbon.

Q. Nothing else?

A. I couldn't say. It is on a box now. If I saw that on a box I would call that a ribbon put on a fancy box.

Q. If you saw it on a bonnet what would you call it?

A. Then I would call it a bonnet ribbon.

Q. Now, then, that might be used as a bonnet ribbon in the spring of 1886, but would not be a bonnet ribbon in the spring of 1887?

A. If it is not the fashion.

Re-direct examination by Mr. TREMAIN:

Q. Now, about these sugar ribbons. Are they generally the same as the ribbons represented by the samples you first examined?

A. They are not as new as these are. These are in the latest style, some of them.

Q. These on the box, have they been used for millinery purposes?

A. They have been the fashion for bonnets.

Q. But they have passed away to use on boxes now?

A. The latest style they are not at the present time.

221 Q. The use of boxes for such ribbons is incidental, or is it general?

A. According to the fancy of the purchaser.

Q. Do they put millinery ribbons to other uses after they have ceased to be fashionable?

A. If they are sold cheap, they are used for most any purposes the purchaser wishes to utilize them for.

Q. If he can get them cheap enough?

A. Yes; if he can get them cheap enough.

Q. But they are not made for that purpose?

A. I don't think so.

Q. Now, what do you mean by the change in style in respect to a ribbon?

A. When the style changes and when they are not in style for bonnets, we can not use them for bonnets according to the fashion.

Q. But you use some kind of ribbons?

A. We do.

Q. The moment that the style of the ribbons changes?

A. Yes.

Q. And ribbons are of all styles and colors, are they not?

A. They are.

Q. And qualities?

A. And qualities.

Q. Sometimes they use one shade and sometimes they use another, and that is what you mean when you say the change of styles?

A. Yes; the patterns and the widths.

Q. By the patterns you mean the designs on the ribbons?

A. Yes.

Q. And the widths and the edges?

A. Yes.

222 Q. But you mean that ribbons in some form are always in style?

A. Not always.

Q. But they are always used to trim?

A. It depends on the fashion.

Q. Now in respect to all of these sugar boxes, are a great many ribbons used for that purpose?

A. Well, there is a fashion for that.

Q. And there is a fashion for every use to which a ribbon is put, and according to your experience when a ribbon ceases to have its chief use for millinery purposes it decreases in value as a commodity?

A. Yes, sir.

Q. You know that because you buy?

A. Because I buy them.

Recross-examination by the DISTRICT ATTORNEY:

Q. These ribbons that you have here now are not the fashion to-day?

A. A few of them.

Q. Some of them are?

A. Some; very few.

223 ISAAC GERSON affirmed and examined.

By Mr. TREMAIN:

Q. You are in business in North 8th street, Philadelphia?

A. I am.

Q. With the lady who has just testified?

A. Yes, sir.

Q. How long has your business experience covered such commodities?

A. Sixteen years it will be on the first day of November.

Q. Do you buy millinery commodities at wholesale?

A. I do.

Q. You know the commodities that are used as trimmings for hats and bonnets?

A. I do.

Q. What are the chief commodities?

A. Straw hats, felt hats, sometimes silks, ribbons, velvets. You may say anything at all in that line—ornaments.

Q. You buy ribbons at wholesale?

A. I do.

Q. What is the chief use of ribbons?

A. The chief use of ribbons for millinery purposes is for trimming hats and bonnets.

Q. Do you know a ribbon that is valuable in commerce for trimming hats and bonnets when you see it?

A. I do.

224 Q. You can tell that ribbon?

A. I can tell it.

Q. You can pick it out of a stock of goods?

A. I can.

Q. You buy it wholesale?

A. I do.

Q. And you buy it for the purposes of supplying the millinery trade?

A. For the purposes of supplying the millinery trade and any other trade.

Q. Now, do you find, as a mercantile man, that if you pay a price for millinery ribbons you can sell them readily for other purposes at the same price?

A. For a fair price. If I sell millinery ribbons this season, say, I can in 99 cases out of 100 get my price for it. If I do not sell it this season, next season I will be very glad to dispose of it at fifty cents on the dollar.

Q. And it goes for any purpose it may be used for?

A. This season I am willing to sell it for any purpose it is used for.

Q. Can you tell, if you should see a ribbon, whether it is a bonnet ribbon or not?

A. I think I can.

Q. And whether its substantial commercial value depends upon its use to trim hats or bonnets or not?

A. I think I can.

Q. Won't you please look at these samples and tell us what their chief use is?

A. (After examining samples.) They are all millinery ribbons.

Q. What is their chief use?

A. To trim hats and bonnets.

225 Cross-examination by the DISTRICT ATTORNEY:

Q. Do you import at all?

A. I do not.

Q. You purchase from wholesale houses?

A. I purchase from commission houses and manufacturers.

Q. When you purchase the ribbons do you go to the wholesale house and make a selection?

Q. I do very often go to the wholesale house and make a selection, and very often the sales people come over to us with samples to make a selection therefrom.

Q. And do you select ribbons that are of a color that you believe to be the prevailing fashion?

A. I do.

Q. You sell them indiscriminately over your counter for all purposes, do you not?

A. We do.

Q. Do you inquire of purchasers that come into your store for what purpose they want them?

A. We do not.

Q. Do you make any difference in price if sold for any other purpose than trimming hats?

A. The difference in the price is this: if we buy ribbon at a certain price we have to sell at a certain price, for we know it is worth that money. For instance, we have that ribbon left over from season to season; we are willing to sell at fifty cents on the dollar and less.

226 Q. I understand you, but I mean during the first season in which they are purchased and you sell them indiscriminately over

your counters, you do not make any difference in the prices, for whatever purpose they are sold?

A. Very seldom.

Q. And in purchasing them no difference is made in the price to you for whatever purpose you want them?

A. No.

Q. Then during the seasons that they are in fashion they do not acquire an increased commercial value because they are used for trimming bonnets, do they?

A. I do not see that they do. You asked me if they have an increase in commercial value.

Q. Yes.

A. I don't suppose they do.

Q. Now, what is the commercial designation of those samples?

A. The commercial designation of those samples is for millinery purposes chiefly, to be trimmed on hats and bonnets.

Q. Yes, but I am asking you how they are bought and sold; what is the name that the trade gives to them?

A. When I go into a house there is a difference of asking. When I go into a house I will say, "I want to see some ribbons." If anybody will ask me, "What purpose do you want them for mainly," I will ask him for millinery ribbons for trimming hats and bonnets. But in general I ask for ribbons.

227 Q. You do not ask for hat trimmings?

A. I do not.

Q. So that they are not commercially known as hat trimmings?

A. Those ribbons I wouldn't use for anything else but for millinery purposes, trimming hats and bonnets.

Q. That is not an answer to my question, I think. I say they are commercially known. I am asking whether they are commercially known as hat trimmings or ribbons?

Mr. TREMAIN. I object to that as immaterial and irrelevant and as not proper cross-examination and as having been already substantially answered by the witness, who has given the commercial designation.

The COURT. Let him repeat.

Mr. TREMAIN. To that I do not object. The other questions I do not object to. But to assume that there is a distinction between the commercial designation of an article as a hat or bonnet trimming and a hat or bonnet ribbon is an assumption of fact that is incorporated in the question that is unwarranted.

The COURT. Let him ask the witness and take the witness' answer.

Mr. TREMAIN. We haven't any objection to that form, to what it is commercially known as.

Q. Well, I will ask you what it is commercially known as?

A. As far as my part is concerned they are commercially known as a ribbon.

228 Q. Now, then, who sets the styles for ribbons?

A. The styles for ribbons are generally set in Europe.

Q. And they are set a season in advance, are they not?

A. They are a season in advance.

Q. Therefore if in November, 1887, you purchased from a foreign

buyer ribbons that would be fashionable next season and imported them in November, 1887, at the time of the importation they would not be fashionable as ribbons, would they?

A. I have never purchased for the spring season ribbons in November. I never purchased them before January or February.

Q. But you purchase for the season in advance?

A. We purchase what we want to use during the spring season in January or February. What we purchase for the summer season we purchase during the months of June and July.

Q. But at the time you purchase the fashions are different, are they not?

A. Certainly; as we see here, there are a great many different fashions.

Q. Don't people in the millinery business frequently trim hats from pieces of silk—that is, take the silk in the piece and trim and cut it?

A. They do, because not all hats are made out of ribbon. There are a great many hats made out of silks and other stuff.

229 Q. Is not your business chiefly millinery business?

A. Yes; our chief business is a millinery business.

Q. And your business experience has been directed, I presume, to the use of ribbons for millinery purposes, to a great extent?

A. To the use of ribbons and everything that belongs to millinery, but mainly selling ribbons.

Q. Mainly for what purpose?

A. Mainly for the purpose of trimming hats and bonnets for millinery.

Q. You do not make a specialty of selling ribbons for other purposes?

A. We do, at the same time.

Q. Do you have a ribbon counter distinct from your millinery counter?

A. Our ribbon counter is in our millinery department.

Q. You sell indiscriminately to all purchasers?

A. Yes.

Redirect examination by Mr. TREMAIN:

Q. You have other departments than millinery departments?

A. Yes; we have a ladies' coat and wrap department; we have a bonnet goods department; we have a dress trimming department, and a lace department.

230. Q. And you know how ribbons are used for dress trimming and other trimmings besides hats, don't you?

A. I do.

Q. You know the quantity of them used in that way?

A. That depends. One lady wants to use one or two ribbons on her dress and another one hundred ribbons.

Q. I speak of you as a buyer. You know the quantity that wants to be used one way an' the quantity another way?

A. That is never taken into consideration when I am buying.

Q. You buy the ribbons at wholesale as commodities for the purposes of trimmings?

A. Yes, sir.

Q. And is it used for any other purpose except to trim something?

A. Ribbon, as I stated before, is not used alone to trim hats and bonnets.

Q. Is it used to trim other things?
A. Yes, sir.
Q. And is it used for any other purpose except to trim something with it?
A. Yes, sir.
Q. What else?
A. Trimming fancy boxes and carriages.
Q. But it is always to trim some article?
A. Always to trim some article.
Q. Did you ever know a ribbon to be used for any other purpose except to trim something with; I mean as a commodity?
A. I really can't tell.
231 Q. You couldn't think of anything else?
A. No.

Recross-examination by the DISTRICT ATTORNEY:

Q. Ribbons are used in trimming hats of all colors, and all widths, and all qualities, are they not?
A. They are.

DANIEL W. CUSTER, sworn and examined.

By Mr. TREMAIN:

Q. Where is your place of business?
A. 39 to 41 North 8th st., Philadelphia.
Q. What is the name of the firm?
A. I. S. Custer & Son.
Q. What line of commodities does that house deal in?
A. Millinery and fancy goods.
Q. How long has your experience extended over such commodities?
A. About 25 or 30 years.
232 Q. What have always been staple millinery commodities?
A. Ribbons, laces, silks, velvets, satins.
Q. I notice you name ribbons first. Are they the principal millinery commodities?
A. It all depends upon the freak of fashion.
Q. Have they always been staple millinery commodities?
A. To a certain extent.
Q. Is there a class of ribbons that have their substantial commercial value for use as trimming for hats and bonnets?
A. Well, we recognize them as ribbons.
Q. Well, is there such a class as have their substantial value for trimming hats and bonnets with?
A. Well, that depends upon the fashion.
Q. There are always some ribbons used for that purpose, are there not?
A. Yes, sir.
Q. Can a man in the trade tell what is a bonnet ribbon when he sees it?
A. I should think so.
Q. Do you buy bonnet ribbons at wholesale?
A. Buy them from the domestic manufacturers.

Q. Do you buy them from importers?
A. Some from importers.
Q. Do you buy at wholesale?
A. Yes.
233 Q. Is it part of your business to familiarize yourself with the articles that are used to trim hats and bonnets with?
A. That is according to the fashion.
Q. It is part of your business to become familiar with it?
A. To become familiar with it, although I have buyers in the house to buy those goods instead of myself.
Q. What particular thing do you do?
A. I superintend my business.
Q. Can you tell when you see a ribbon, whether it is a bonnet ribbon or not?
A. If I see a ribbon, I can tell it is a ribbon.
Q. I say, when you see a ribbon, can you tell whether it is for trimming bonnets or not?
A. I can't tell whether it is for trimming bonnets.
Q. Can you tell when you see a ribbon whether its chief use is for trimming bonnets?
A. Their principal use is for trimming bonnets.
Q. Will you please look at the samples before you, and say whether their principal use is for trimming bonnets or not?
(After examining samples.) They have been, but not this season.
Q. When were they?
A. Well, about the last year or two.
234 Q. What was their chief use last year?
A. For trimming bonnets and hats.

Cross-examination by the DISTRICT ATTORNEY:

Q. What prop'rtion of your business is the millinery business?
A. Well, I can't altogether give you the percentage, but the bulk of it is millinery.
Q. Your attention as a business man, then, has been chiefly directed to the use of these ribbons for millinery purposes?
A. Chiefly directed to the use of these ribbons for millinery purposes.
Q. They are used for a great many other purposes?
A. Yes, sir.
Q. And ribbons that are fashionable for trimming hats may also be used for millinery purposes?
A. Yes, sir.
Q. Did you have a special ribbon counter?
A. Yes.
Q. Do you sell the ribbons indiscriminately over the counter?
A. We sell them as ribbons over the counter.
Q. In selling them over the counter do you ask the purpose for which the buyer wishes them?
A. Yes; I have to at times.
235 Q. But do you generally?
A. Generally and principally for millinery.
Q. I ask you whether when a person comes in your store to purchase ribbons, you generally ask for what purpose they want them?

A. No, sir; we do not ask it.

Q. Is it not a fact that ribbons that are in fashion in any one particular season have a uniform price, without respect to the use to which they may be put.

(Objected to.)

A. The price of ribbons is a good deal governed by the fashion.

Q. But, I say, without respect to the use to which they may be put they have a uniform price when in fashion?

A. Yes, sir.

Q. What are those samples which you have there before you commercially known as?

A. Ribbons.

Q. They are bought and sold as ribbons?

A. Yes, sir.

Q. In ordering them, do you order them under the trade designation of hat trimmings?

A. I order them as ribbons.

Redirect examination by Mr. TREMAIN:

Q. When you say that they depend upon the fashion, what does the fashion depend upon?

A. Upon the color and the width

236 Q. Well, by fashion, you mean the use, don't you?

A. The use of it. The use of the ribbon, of course, depends upon the color and fashion.

Q. When you speak of the fashion, you speak of the use of the article?

A. The use of the article.

Q. The price depends upon the use of the article?

A. Yes, sir.

Q. Its substantial commercial value as a commodity depends upon the use to which it is to be put?

A. Yes, sir.

Q. That is the fact in the trade?

A. Yes, sir.

Q. That has always been the fact during your experience?

A. Yes, sir.

237 FANNY DUFFY, sworn and examined.

By Mr. TREMAIN:

Q. Are you in business, Mrs. Duffy?

A. Yes, sir; I am.

Q. In Philadelphia?

A. In Philadelphia, at 820 Arch street.

Q. What class of commodities do you deal in?

A. Trimmings for bonnets and hats for ladies.

Q. Do you buy the trimming?

A. I buy everything, sir.

Q. Do you buy the hats or make the hats?

A. I buy them, make them, and sell them.

Q. Do you buy the trimmings?

A. I buy the trimmings.

Q. You don't make the trimmings?
A. Some of the edges I make to fancy trimmings.
Q. Now, what is the chief trimming that you buy?
A. I buy velvets, frames, beads, gimps, galloons, flowers, feathers, ribbons, and laces, and straw goods, and birds' feathers, and silks.
Q. Now, we are going to ask about ribbons. Do you buy ribbons at wholesale?
A. I do.
Q. Do you know when you go into a stock of ribbons what ribbons are adapted to trimming hats with?
238 A. Yes; that is my class of trade; I do.
Q. What is your class of trade?
A. A respectable class of trade; second class, I think; a general trade, a popular trade.
Q. A fair popular trade?
A. That is it.
Q. Do you buy all classes of ribbons for that trade?
A. Oh, yes.
Q. What class?
A. I generally buy fine cloths; domestic and foreign also.
Q. And silk ribbons—silk or cotton ribbons?
A. Very little cotton ribbons; nearly all silk.
Q. Fancy ribbons?
A. Fancy brocade and stripes.
Q. Can you tell when you see a sample of a ribbon whether its chief use is for trimming hats or not?
A. I can, according to the taste of the person, you know.
Q. When you see a ribbon in stock can you tell?
A. I can tell whether it suits my trade.
Q. But can you tell what the principal use of that ribbon is when you see it?
A. Yes, I can. Of course some persons will put it to other uses; but the general use I can tell.
Q. Now, won't you be good enough to look at those samples and tell me whether their general use in 1887 was for trimming
239 hats and bonnets or not?
A. They are all for hats and bonnets.
Q. That was their general use. Did you ever see those samples before?
A. No.
Q. I mean those particular samples.
A. No.

Cross-examination by the DISTRICT ATTORNEY:

Q. From whom do you buy your ribbons, Mrs. Duffy?
A. Different houses in New York and this city both, and in Boston.
Q. You buy both foreign and domestic ribbons?
A. Yes, sir.
Q. Are those ribbons before you either foreign or domestic?
A. Well, they look to me like America ribbons, except No. 313. I am not sure, but I think so.
Q. Now, as I understand you——
A. (Interrupting.) I don't think No. 233 is American.

Q. Mrs. Duffy, when you buy ribbons, as I understand you, you buy those styles which you think will best suit your customers, don't you?
A. I do.
Q. Do you put them on hats yourself or do you sell them to others to put on hats?
A. I put them on myself and persons I employ.
240 Q. Then you are a milliner, are you not?
A. I am a milliner.
Q. So that the ribbons you buy you buy to put on hats?
A. All the time.
Q. Do you buy them as ribbons?
A. I buy them as ribbons.
Q. And ribbons are used very largely for dress purposes, are they not?
A. They have been lately.
Q. I rather think that you have got more ribbons on your dress than you have got on your hat?
A. Yes, sir.
Q. It takes a good many more yards of ribbon to trim a dress than it does to trim a bonnet, don't it?
A. It does.
Q. Now, the other articles that you buy are velvets, beads, gimps, braids, plaits, ribbons; what else?
A. Laces, feathers, birds, ornaments, buckram; oh, a great many things.
Q. Now, what is the trimming of a bonnet?
A. I consider it altogether trimming.
Q. You consider everything that goes into a bonnet part of the trimming, except the frame?
A. Yes, sir.
Q. That is the bonnet, is it not?
A. That is the foundation.
Q. And everything else that goes into a bonnet is a trimming, ain't it?
A. That is my opinion.

241 The DISTRICT ATTORNEY. That is all I am asking for.

Redirect examination by Mr. TREMAIN:

Q. Do they use the same ribbon to trim a dress that they do to trim a hat, generally?
A. Not generally.

GARRY CLARKE, sworn and examined.

By Mr. TREMAIN:

Q. What is your place of business?
A. 808 Arch street.
Q. What is the house?
A. Danenbaum, Son & Co.
Q. What line of business do they do?
A. Millinery business.
Q. At wholesale?
A. At wholesale.
Q. How long have you been familiar with millinery commodities?
A. Seven or eight years.

Q. What are the principal millinery commodities that are used
242 to trim hats and bonnets with?

A. Velvets, ribbons, flowers, feathers, laces, ornaments, and various other articles. They are very numerous.

Q. Those are the principal articles?

A. Those are the principal ones.

Q. Can people in the trade, as a general thing, tell bonnet ribbons when they see them?

A. They can.

Q. Are there classes of ribbons that are specially adapted to that purpose?

A. Yes, sir.

Q. And they have their chief commercial value because they are used for that purpose?

A. Yes, sir.

Q. Can you tell such ribbons when you see them?

A. I can.

Q. Will you be good enough to look at the ribbons represented by the samples now shown you and tell what their chief use was in 1887; I mean as commercial commodities; what their substantial use was?

A. These were used for millinery purposes.

Q. Is that their chief use?

A. That is their chief use.

Cross-examination by the DISTRICT ATTORNEY:

Q. How are they bought and sold; what as?

243 The WITNESS. Do you mean these that I have here?

The DISTRICT ATTORNEY. Yes; those of which they are samples.

A. As fancy ribbons.

Q. Known to the trade as such?

A. Known to the trade as such.

Q. You never heard them called hat trimmings, did you?

A. Yes, they are called hat trimmings.

Q. You mean bought and sold as such?

A. They are commercially known as hat trimmings.

Q. Did you ever buy any goods like those?

The WITNESS. Do you mean like these patterns, or on this style?

The DISTRICT ATTORNEY. Yes; anything like those samples?

A. I have.

Q. How were they billed to you; as hat trimmings or ribbons?

A. They were billed as fancy ribbons.

Q. If they were known commercially as hat trimmings, how were they billed to you as fancy ribbons?

Mr. TREMAIN. Oh, that is argument; that is not proper.

The COURT. That is purely argument.

The DISTRICT ATTORNEY. Very well; I will withdraw the question.

244 By the DISTRICT ATTORNEY:

Q. When you sold them to anybody did you bill them as fancy ribbons or as hat trimmings?

A. I billed them as fancy ribbons.

Q. Well, if they were known commercially as hat trimmings, why did you bill them to your customers as fancy ribbons?

Mr. TREMAIN. I think that is argument.

The DISTRICT ATTORNEY. I think not, sir. The other was argument, but this is not.

A. I take it that there is a difference between commercial billing and commercial knowing.

Q. You think there is a difference between commercial billing and what else?

A. And commercial knowing.

Q. Now, as a matter of fact, among those who deal in them and who buy them and who sell them and who import them, are they not known simply as ribbons?

A. These are known to me only as fancy ribbons.

Q. Don't you know anything about the importing of ribbons; did you never see an invoice?

A. Not a direct importation invoice.

Q. Well, now, as a matter of fact, you are called here as a man having some knowledge on this subject, and I am entitled to know what
245 is your means of knowledge and what you really do know. I want to know whether, as a matter of fact, the samples which you have in your hand are not known among merchants and among those who buy and sell them, simply as fancy ribbons or simply as ribbons?

A. Simply as fancy ribbons.

Q. Then they are not called hat trimmings when they are bought and sold?

A. Not when they were sold—not when they are bought, I should say.

Q. I take it when they are bought they are sold by somebody, ain't they?

A. When I buy them I call them fancy ribbons, when I sell them I sell them as hat trimmings.

Q. Do you sell them by the yard or piece?

A. By the piece.

Q. And you mean to say that you bill them to your customers as one piece of hat trimmings?

A. As I said before, I bill them as fancy ribbons—one piece of fancy ribbon.

Q. Then you bill them to your customers as fancy ribbons, do you?

A. That is what I said.

Q. I understood you differently. Well, if you buy them as fancy ribbons, and sell them as fancy ribbons, and bill them as fancy ribbons wouldn't you say that that was their commercial designation?

246 Mr. TREMAIN. That is argument.

The DISTRICT ATTORNEY. I am asking this witness the question. I think that is a fair question.

Mr. TREMAIN. The question is, what was the fact in trade. He was not called about commercial designation. It has nothing to do with this case.

The DISTRICT ATTORNEY. Of course that is a question that we are trying.

Mr. TREMAIN. You have been trying to try it.

The DISTRICT ATTORNEY. I am making a feeble effort to do it, sir.

The COURT. He may answer the question.

Q. I ask you if these goods are bought by you as fancy ribbons, are sold by you as fancy ribbons, are billed as fancy ribbons, whether you would not say that their commercial designation was fancy ribbons and not hat trimmings?

Mr. TREMAIN. That I don't object to; that is another question.

A. I should say that they were fancy ribbons.

Q. That their commercial designation was fancy ribbons?

A. That their commercial designation was fancy ribbons.

247 Redirect examination by Mr. TREMAIN:

Q. Now tell the jury what you mean when you say "commercial knowing." Just tell the jury what commercial knowledge is in respect to these ribbons, touching their use.

A. What I mean by that is, if a customer should come and ask me for hat trimmings, among other things I would show him ribbons. That is what I mean by commercial knowing as hat trimmings.

Q. What you mean to say is, that those kind of ribbons are known in the trade as ribbons that are used to trim hats with?

A. That is it exactly.

Q. That is what you mean by commercially known as hat trimmings?

A. Yes, sir.

Q. That is what anybody else means in the trade, as far as your experience goes, that those kind of ribbons are known in the trade as ribbons that are used to trim hats with; that is common sense, is it not?

A. That is the way I take it.

248 JACOB T. DOLL, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Musical instruments, games, toys, &c.

Q. With the plaintiffs?

A. Yes, sir.

Q. How long have you been engaged in the business of toys and fancy goods in the city of Philadelphia?

A. 24 years.

Q. Do you know what the articles are that are commercially accepted as toys?

A. I do.

Q. And you deal in them?

A. I do.

Q. Well, now, tell the jury what are toys?

A. They are dogs and cats and monkeys and nunkies and things of that kind.

Q. Playthings for children?

A. Playthings for children; yes, sir.

Q. Do you know what musical instruments are?

A. Yes, sir.

Q. What are musical instruments?

A. Anything producing the sound of music.

Q. Now, look at this sample here [trumpeter already exhibited] and tell me whether that is a musical instrument or not.

249 A. I consider that a musical instrument.

Q. Does it produce musical sounds?

A. Yes, sir.

Q. It produces them mechanically, does it not?

A. Yes, sir.

Q. Does it produce a succession of harmonious tones?

A. Yes, sir.

Q. Do you know the highest and lowest notes within the register of that instrument?

A. No, sir.

Q. Do you know about how many notes are included within the register of the tune it plays?

A. About four or five.

Q. Do you know what tune it plays?

A. It plays four of the French bugle-calls of the cavalry class.

Q. Are those musical measures?

A. Yes, sir; just as produced by the French cavalry.

Q. Now, do you import musical instruments and sell them in quantities?

A. Yes, sir.

Q. You don't buy this thing in large quantities to sell to children for playthings, do you?

A. No, sir; we don't generally buy those things for children's playthings.

Q. In fact, how many of them do you import?

A. One of a kind.

Q. That is the only one in this importation, is it not?

A. Yes, sir.

250 Q. And that is to be used to produce musical sounds, is it not?

A. It is an automatical musical figure.

Q. It can be set in a particular place and it produces these tunes?

A. Yes, sir.

Cross-examination by the DISTRICT ATTORNEY:

Q. Are you a musician?

A. Very little.

Q. You said in answer to Mr. Tremain that the sounds it produced were musical measures. What are musical measures?

A. Notes of harmony.

Q. What is an octave?

A. Seven sounds.

Q. What is a chord?

A. A number of notes together produced at one time.

Q. Then this instrument does not produce a full octave at any time; it can't do it?

A. No, sir.

Q. What are the four or five notes of sound that it produces?

A. I can't say the name of the notes. They are the same as those used

in the French army. The notes are sufficient to produce the melody which it imitates or plays.

Q. Well, it has an automatic movement, too, that enables it
251 to turn the hand and turn the head and move the eyes?

A. Yes, sir.

Q. Who manufactured it?

A. It was manufactured in Paris.

Q. Do you know by whom?

A. I don't know the name, sir.

Q. I understand you to say that you with your experience—which is not very large; you do not understand music—pronounce the sounds that that figure emits as being music; is that so?

A. Yes, sir; according to the French trumpet.

Q. Do you regard any sound as music?

A. According to the instrument played on. That is, one makes one sound and another another sound.

Q. You think any noise that a thing makes is music, do you?

A. No, sir; that is an exact reproduction of the French trumpet as played in France, and the tone of it is a French tone, not the American tone.

Q. Did you ever hear the French bugle-call?

A. Yes, sir.

Q. There is not much difference between it and ours, is there?

A. The difference is the sound of the trumpet; the difference in the notes they use also.

Q. That is, one is louder than the other?

A. Yes, sir; there is some difference. There is a difference in the quality of the tone. Some like this. This is not at all like
252 our American bugle, the tone of it. It is just like all French bugles.

Q. What part of that toy do you regard as the musical instrument?

A. The movement of the works and the tone it produces, on the same principle as a music-box or an orchestrion. The interior movements are about the same.

Q. Then you do not regard the horn as the musical instrument?

A. The horn is the musical instrument; yes, sir.

Q. Now, which produces the sound, the horn or the material inside?

A. The pipes inside.

Q. Then the horn has nothing to do with it, has it?

A. No, sir; although some notes can be produced on the horn.

Q. I am speaking of this machine here. As a matter of fact, the horn don't go to the man's lips?

A. They don't produce the sound.

Q. The sound is produced by the mechanism inside?

A. The horns inside, the pipes. Pipes are horns; you may call them either.

By Mr. TREMAIN:

Q. (Interposing.) What are those pipes made of?

A. Metal.

By the DISTRICT ATTORNEY:

Q. (Resuming.) What do you understand by the word tune?
253 A. Sounds; musical sounds.

Q. Do you regard one note as a tone?

A. No, sir; that is a note, a tune. I said tone.

Q. Then you haven't used the word tune; is that it? Didn't you say that he played the tune of the French bugle?

A. Yes, sir. It takes those four tones to make the tune.

Q. I thought you said so. I did not want to misquote you. Now I ask you what a tune is and you say it is a sound. Is that so?

A. A tune is a musical sound or sounds.

Q. Mr. Doll, of late years those engaged in the business have been introducing improved mechanism in the shape of toys far in advance of what they introduced ten years ago, have they not?

A. Yes, sir.

Q. For the amusement of children, and sometimes for children of larger growth?

A. Yes, sir.

Q. There is no doubt about that, is there?

A. No doubt at all.

Q. Now you don't pretend to say, Mr. Doll, that that automaton gives a musical entertainment, do you?

A. Yes, sir; in a measure.

Q. Is not its chief value because of the surprising mechanism that enables it to move its arm and its hand and its nose and its mouth and then to emit these sounds?

254 A. It wouldn't have the value without the sounds.

Q. You don't think that those sounds by themselves in a box would have any value, do you?

A. In this figure it would.

Q. That is what I think; but I ask you whether you think those sounds emitted from a simple box would have value like that of a musical box which emits sounds and tunes and harmonies?

A. Yes, sir; as a French bugle-call it would.

Q. Now isn't it a matter of fact that the bugle-call, as you call it, is nothing but a succession of toots, and don't pretend to be a tune among musicians?

A. It is called a call. It is a tune, nevertheless.

Q. Did you ever hear it called a tune?

A. I call it a call.

Q. It is not even called a tune by those who play them?

A. It is not known by that term.

Q. How many notes of sound do these images of cats and dogs emit that you have?

A. One.

Q. Only one. Are you sure of that?

A. As far as I know. There is one sound in these little cats and dogs. There is a squeaking dog. The cats have one sound.

Q. What do you call a note?

A. It is a musical term—it is a musical sound.

255 Q. Now, as I understand you then, the cats and dogs you sell emit only one musical sound?

A. They emit no musical sound.

Q. But you think this creature does?

A. That is a musical sound as played on a musical instrument.

Q. But the musical instrument he has in his hand has nothing to do with the sound?

A. The pipes imitate the instrument.

Q. But the musical instrument he has in his hand has nothing to do with the sound produced by the figure?

A. No.

At this point (1 o'clock p. m.) the court took its usual recess until 2 o'clock p. m.

AFTER RECESS.

JACOB T. DOLL, resumed the stand and his cross-examination was continued as follows:

By the DISTRICT ATTORNEY:

Q. You are in the employ of the plaintiff, are you not?

A. Yes, sir.

256 Redirect examination by Mr. TREMAIN:

Q. Are these bugle-calls a succession of harmonious musical tones?

A. Yes, sir.

Q. What is the difference between a tone and a tune?

A. A tone is one note and a tune is a combination of notes.

Q. A tune is a combination of notes in the form of a melody, is it not?

A. Yes, sir.

Q. In succession, instead of being sounded at once?

A. Not a chord.

Q. These toy dogs and toy cats that you speak of as emitting one sound, is that particular sound a musical tone?

A. No, sir; it is a noise.

Q. Are all the tones that are sounded in succession in these bugle calls or bugle tunes musical notes?

A. Yes, sir.

Q. Are they united in harmonious succession?

A. Yes, sir.

Q. And that is music, is it not?

A. That is music.

Q. And that is what musical instruments produce?

A. Yes, sir.

257 GUSTAVUS A. SWARTZ, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Importer of toys and fancy goods.

Q. Where?

A. 1006 Chestnut street.

Q. How long have you been engaged in that class of commodities?

A. About thirty years.

Q. Wholesale and retail?

A. Wholesale and retail, in later years.

Q. You deal in playthings for children?

A. Yes, sir.
Q. And baubles?
A. Well, everything in that line.
Q. Now, just tell the jury what toys are?
A. (Indicating trumpeter.) I do not call that a toy. I call that a musical figure, or a show-piece. They are in the invoice called show-pieces. I have got the same thing, and I think they call it a musical show-piece.
Q. It is not a toy?
A. We could not designate it as a toy. That is not for children to play with. It is to amuse children as well as grown people, I suppose.

258 Cross-examination by the DISTRICT ATTORNEY:

Q. You would not call it a musical instrument, would you?
A. A musical figure.
Q. Would you call it a musical instrument?
A. I don't think that is just the right name for it. You could call it so, though, I suppose.
Q. Have you heard it?
A. I had it last year; the same thing.

By Mr. TREMAIN:

Q. (Interposing.) You had the same thing?
A. I imported the same article, only a smaller one, from the same man.

By the DISTRICT ATTORNEY:

Q. You paid the duty?
A. I paid the duty.
Q. Without protest?
A. I did not protest, because it was of no advantage.
Q. You did not think it was a musical instrument at the time, did you?
A. Oh, well, our goods are so manifold we wouldn't protest about everything about which there is a difference of opinion.
Q. You did not at the time?
259 A. Yes, I think we entered it as a musical instrument. I think Mr. Hempstead, our custom-house broker, entered it as a musical instrument. Afterwards we had to pay the additional duty. I think we did so.
Q. You paid the duty on it as a toy?
A. Well, you might call it so; 35%.
Q. How was it invoiced to you?
A. I think this particular thing is a trumpeter.
Q. And you call it a show-piece?
A. Well, I call it a show-piece. The same man who makes the thing calls some of his goods show-pieces that are made for show-pieces.
Q. What other articles does he make of the same kind?
A. Well, a hundred different things, with music combined.
Q. You do not know anything about music, Mr. Swartz?
A. No; I am not an expert on music.

Redirect examination by Mr. TREMAIN:

Q. You were subpœnaed by the Government, weren't you?
A. Yes, sir.

260 ANTON WINTERS, sworn and examined.

By Mr. TREMAINE:

Q. What is your business?
A. Importer of toys and fancy goods.
Q. At wholesale?
A. At wholesale; yes, sir.
Q. By toys do you mean playthings?
A. Playthings for children.
Q. Is that what toys mean in the trade?
A. That is what toys are meant for.
Q. Is this trumpeter a plaything for children?
A. Not to my idea at all.
Q. Would you call it a toy?
A. I couldn't call it a toy.
Q. You were subpœnaed by the Government, weren't you?
A. I was subpœnaed by the Government.

Cross-examination by the DISTRICT ATTORNEY:

Q. Couldn't that be made to entertain children?
A. Yes; you could entertain children with it.
261 Q. Wouldn't it be more likely to entertain a child than a grown person?
A. Well, it would entertain grown persons as well as small children.
Q. That is not my question. I asked you wouldn't it be more likely to entertain a child than a grown person?
A. Well, I don't know. The one is just as much entertainment as the other may be for we grown persons to see this wound up and played the way I heard it.
Q. Of course it is entertaining, but its automatic feature, the dropping of the elbows, the raising of the arm, you calculate to entertain children more than grown people?
A. Not according to my idea.
Q. You think you would be more entertained than a child would be?
A. Well, just as much.
Q. What is your definition of a toy?
A. A plaything for a child.
Q. Do I understand that because of its size it would be a plaything for a child?
A. A child could not handle that article, because if a child would handle it, it would break in less than no time.
Q. Doesn't that apply to a great many things that you call toys?
262 A. That is all right; but they play with them at the time and by their playing with them they are very likely to destroy the article. But that is no proof as to this article here that it is a plaything for a child whatever. Children are apt to break those things.
Q. If that is not a plaything for a child, intended to amuse children, what is its purpose?
A. It is more for a showpiece. It is a musical trumpeter, what I consider a musical figure.
Q. Meant to be put in windows to attract attention, is it not?
A. It is to attract attention in business in any way. Wind it up, and grown people go purposely there to see it.

Q. Its purpose is to attract children or any person else, isn't it?

A. That is so.

Q. In your judgment would a musician be likely to have such an automaton as that in his parlor?

Mr. TREMAIN. We object to that, sir—what musicians may consider to be musical instruments——

The COURT (interposing). They would look with great contempt at a thing of this kind. I don't know that a musician is better capable of telling a jews-harp is then persons that hear it and use it and play with it. Of course, it don't require any science. The jury would be
263 the best judge. This thing, it is evident from the witness who was examined here before, is intended to show what kind of music they have in the French army; and in that sense it is a musical instrument or musical curiosity.

The DISTRICT ATTORNEY. If the court please, we would hardly like to accede to the ruling that a bugle-call is a piece of music. We shall offer, of course, testimony to show that a piece of music has a well-defined meaning and would not apply to a simple series of bugle-calls.

The COURT. It has a practical, common-sense meaning. What is the popular definition or understanding of it?

Q. There are plenty of playthings used for children quite as large as that, and quite as expensive, are there not?

A. A doll-house is something like as large as that; it might be larger; but not in the shape of a figure like this.

Q. For instance—I don't know whether it has a technical term or not—what you call a hobby-horse; ain't they just as large as that?

A. That is a different thing altogether.

Q. Isn't it a plaything?

A. That is a toy; yes, sir.

Q. And that is just as large as this figure?

A. Yes, sir.

264 Mr. TREMAIN. I think we will have to object to the exploration of the hobby-horses.

The DISTRICT ATTORNEY. It is a hobby with you that this thing is a musical instrument. We don't want you to ride that horse; that is all.

The COURT. The object is to save as much time as possible. Go on and get through.

Q. You don't know anything about music, do you?

A. No, sir.

JULIUS S. DANIELS, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. I am engaged in the sale of millinery and dress trimmings.

Q. How long have you been familiar with that class of commodities?

A. Witn millinery goods I have really been engaged in business for 31 years.

265 Q. The same kind of business?

A. The same kind of business; with my present firm only 13 years.

Q. Where is your present place of business?

A. 46 North 8th street, Philadelphia.

Q. Where have you been engaged in business?

A. In the island of Barbadoes, West Indies, and in Philadelphia.

Q. Have you bought and sold at wholesale, trimmings of various kinds?

A. Yes, sir.

Q. Do you know the trimmings that are chiefly used for making and ornamenting hats, bonnets, and hoods?

A. I do, sir.

Q. What are some of those commodities?

A. Ribbons, velvets, silks, satins, laces, millinery ornaments composed of jet, steel ornaments, birds, fancy feathers, ostrich feathers, lace grounds. There are a number of articles that are used in the millinery department.

Q. Now tell us about the ribbon commodities. Are there any ribbons that are chiefly used to trim hats and bonnets and hoods?

A. Yes, sir; any ribbon may be used as a hat trimming. You can use any ribbon, but fancy ribbons are principally known as adapted for the purpose of trimming hats and bonnets.

266 Q. That is their commercial status?

A. That is their principal use—bonnet ribbons; although, as I said, any ribbon can be used for that purpose.

Q. But commercially, there is a class of ribbons that are known to be ribbons for the use of bonnets?

A. For the use of bonnets and hats.

Q. Do you use ribbons as trimmings for various purposes?

A. Yes, sir; we use ribbons for both millinery purposes and for dress trimmings.

Q. Can you tell when you see ribbons whether they are principally used, speaking of their commercial use, for trimming bonnets and hats or for trimming for some other purposes?

A. I think I can.

Q. But ribbons are trimmings, are they not?

A. All ribbons are trimming, either for one purpose or another.

Q. Will you be good enough to look at the samples now shown and state what is their principal use, commercially speaking?

A. (After examining samples.) They are all millinery ribbons, sir, but a few of them may be used for dress trimmings.

Q. You mean a few of the patterns?

267 A. A few of the patterns. They are millinery patterns. They were no doubt intended for millinery purposes.

Q. Even those few patterns which may be used for other purposes, what is their particular use?

A. They were intended for millinery uses, but they are of such a nature that they may be used for dress trimmings, two or three of them.

Q. But even in respect to those two or three, their chief use is for what?

A. For millinery purposes for trimming hats or bonnets.

Q. You have a dress-trimming department?

A. I have, sir.

Q. Would you purchase even those few patterns for trimming dresses when you purchased?

A. No, sir; I would not.

Q. Which department would you put them in?

A. The millinery department.

Q. Not the dress-trimming department?

A. No, sir. If we had them we might possibly sell them at times, but we wouldn't buy them for the purpose of putting them in our *trimming* (in pencil, *millinery*) department.

Q. After they went out of style you might sell them?

A. Yes. There is no doubt but what those ribbons were purchased for the purpose of trimming hats or bonnets.

268 Cross-examination by the DISTRICT ATTORNEY:

Q. As I understand you, if you were asked to purchase any of those ribbons you would select those which you thought would look best on the hat, and would buy them for the purpose of selling to milliners?

A. I would buy such suitable styles for bonnet and hat trimming——

Q. (Interposing.) As you thought your customers would like?

A. As my judgment told me was suitable for hats.

Q. Of course, you would be guided a good deal by the taste of your purchaser?

A. No; I would know just what goods were suitable for hats and bonnets and what goods were not; therefore, I would buy those goods only for bonnets and hats. I would not buy them at all now; they are out of style.

Q. They were used when?

A. Probably a couple of seasons ago.

Q. Are they foreign or domestic ribbons?

A. I should judge they must be foreign, if the duty has been paid on them.

Q. I am asking you from the texture, not what you suppose?

269 A. It is very difficult to tell. The art of ribbon manufacture has improved to such an extent in this country, it is a very difficult matter to tell.

Q. That is, to-day, you can not tell the domestic from the foreign ribbons?

A. It is a difficult matter to tell.

Q. So that from the texture of those ribbons you can not form an opinion?

A. It is very hard to tell. Of course, I know they are imported, from the fact that there is a suit on them; but I say it is a difficult matter now to tell domestic from foreign ribbons.

Q. How long have they been manufacturing ribbons in this country?

A. Certainly over 20 years.

Q. Since 1864?

A. I have known them to be manufactured since that time; yes, sir.

Q. Those ribbons of which they are samples are commercially known as ribbons, are they not?

A. As ribbons.

Q. Are they known in any other way?

A. They are known as fancy ribbons. They are ribbons, undoubtedly, but they are styled fancy ribbons.

Q. And that has been their designation for many years?

A. Fancy ribbons; yes, sir.

Q. How long do you suppose?

A. Since I have known anything of ribbons.

Q. And how long has that been?

A. 31 years.

270 Q. The articles, the samples of which are in your hands or their like, have been known in all that period as fancy ribbons to the trade?

A. Yes, sir.

Q. Never called hat trimmings?

A. I don't remember their being called hat ribbons or millinery ribbons. I have occasionally heard them called bonnet ribbons. Persons sometimes call them bonnet ribbons, but they are known to the trade as ribbons or fancy ribbons. The word fancy ribbon is meant to show that they are not plain ribbons. Plain ribbons are called plain grosgrain ribbons or belt ribbons, a variety of other kinds, moire ribbons, but these are fancy ribbons. Now, here is a pattern in a wider width that we used a year ago. That very pattern went in a wider width for bonnets, only millinery purposes.

Q. Now, when you use silk handkerchiefs for trimming hats what do you call them?

A. It is a very rare thing.

Q. They did it, didn't they?

A. They have been used. They use lace fichus for the crown of the hat.

Q. There was a season, if I remember rightly, when they trimmed bonnets almost exclusively with silk handkerchiefs?

A. I don't remember the time when they did that.

271 Q. Do you remember it at all?

A. I think I remember that.

Q. How long ago was that?

A. Some years ago.

Q. Within the last two or three years?

A. No, sir. We used hat scarfs two or three years ago, but not as a regular trimming for hats. Some hats were trimmed up with lace scarfs, some hats with lace fichus, some hats with ribbons.

Q. But what were the majority of hats trimmed with at that time?

A. Ribbons are almost always used as hat trimmings.

Q. That is not an answer to my question. At the time you speak of, when bonnets were trimmed with lace fichus and handkerchiefs and ribbon—I mean in that season when the bonnets were miscellaneously trimmed, with which were they trimmed the most?

A. They might have been trimmed with a variety of things. In those off seasons there are a number of things brought into play. There is no one particular thing. There is now what is called a general fancy season, when you may take a few of almost anything and make bonnets with it.

Q. And those seasons occur how often?

A. Probably once in four or five or six years.

272 Q. And then sometimes there is a season when velvets are exclusively used?

A. Yes, sir.

Q. Plushes?

A. Plushes never to the same extent as velvets.

Q. But velvets?

A. Well, velvets are almost always used, too.

Q. Now, correct me if am wrong; I do not want to misstate the fast.

Mr. TREMAIN [interposing]. Suppose you ask him the question.

The DISTRICT ATTORNEY. Excuse me. That is my mode of putting the question. If I do not put it in the form of a question, you can object.

Q. Is it not a fact that there have been seasons within the last three or four years when velvets were used to trim the variety of bonnets that were sold?

A. Yes; but it is almost invariable that we use ribbons for strings.

Q. Then they are called bonnet strings, aren't they?

A. They are called bonnet strings, but it forms part of the trimming. And even if the bonnet is made of velvet you make a bow, probably two or three bows, of ribbon.

Q. That depends upon the fashion?

273 A. Yes; but it is pretty nearly always so.

Q. Or you may use flowers?

A. The flower is not used in the same way as ribbons. You use flowers and ribbons, too.

Q. And you use birds?

A. You don't use birds and flowers together. Birds are principally for fall and winter and flowers principally spring trimmings.

Redirect examination by Mr. TREMAIN:

Q. I understand you to say that there are specific names for different ribbons?

A. Yes, sir.

Q. Illustrate.

A. Grosgrains, fancy ribbons, dolls ribbon, and silk ribbon—all of those class of ribbons rather then gauze, or silk, or moire. If they have any name at all that separates them from the plain, ordinary ribbons, they are fancy ribbons. Now, this stripe. If it had only these stripes it would be designated as fancy ribbon. The plain ribbons are plain entirely, without any other effect upon them; and those plain ribbons are principally adapted for both millinery and dress trimmings. But these fancy ribbons are not used for dress trimmings.

274 Q. So that when you want to identify in commerce a particular ribbon you distinguish it by its specific name?

A. Yes.

Q. Or some special ribbon?

A. Oh, yes; we would say moire ribbon, we would say gauze ribbon, fancy ribbon.

Q. And the use of ribbon is one of their distinguishing characteristics?

A. Yes, sir.

Recross-examination by the DISTRICT ATTORNEY:

Q. Is the use of the ribbon a distinguishing characteristic as to its title?

A. The use of ribbons is principally adapted, from my early knowledge of the use of ribbon, for bonnets and hats only.

Q. That is not my question. I want to know whether the use of the ribbon has anything to do with its title. For instance, you have called those grosgrain ribbon .noire ribbon, gauze ribbon, and other titles. Now, I want to know whether the use of it has anything at all to do with the titles?

A. Well, we would call a fancy ribbon adapted for millinery purposes.

275 Q. That is not the question.

A. Maybe I don't clearly understand it.

Q. I want to know whether the use of the ribbon has any thing at all to do with the title of it.

The WITNESS. The title as ribbon?

The DISTRICT ATTORNEY. Yes.

A. No, I don't think so.

AARON LICHTEN, sworn and examined.

By Mr. TREMAIN:

Q. Have you been in the millinery business?

A. Yes, sir.

Q. Just tell the jury what experience in that line of business you have had?

A. I have been in it since boy and man.

Q. How many years?

A. Upward of 25.

Q. You are not in it now?

A. No, sir.

276 Q. Are you familiar with the staple commodities used in the business as trimmings for hats and bonnets?

A. Yes, sir.

Q. What are the chief trimmings that are so used?

A. They consist of bonnet frames, bobinette, wire, laces, velvets, and ribbons.

Q. And feathers and flowers?

A. Yes, sir.

Q. Can you tell a ribbon that is a trimming for hats and bonnets when you see it?

A. Yes, sir.

Q. What is the chief use of ribbons, as far as your experience in trade goes?

A. The trimming of hats and bonnets is their natural use.

Q. Is there a special class of ribbons that are peculiarly adapted to that particular use?

A. Yes, sir.

Q. And that are recognized in trade as having value for that use?

A. Yes, sir.

Q. And could you tell, if I should show you some samples, whether those samples represent ribbons that are trimmings for hats and bonnets or not?

A. I think I could.

Q. Be good enough to look at those samples and state whether
277 they are chiefly used for ornamenting hats, bonnets, and hoods or not.

A. They are absolutely pure and simple fancy millinery ribbons.

Q. What do you mean by that?

A. I mean that character of goods have always been used, imported, and manufactured for those purposes.

Q. In respect to those particular samples what is their chief use?

A. Millinery uses.

Q. By that you mean trimming and ornamenting hats and bonnets?

A. Yes, sir.

Q. You had some suits against the Government, haven't you?

A. I had; but they have been decided in this court in my favor.

Cross examination by the DISTRICT ATTORNEY:

Q. I understood you to say in answer to Mr. Tremain that the natural use of ribbon is for the purpose of trimming bonnets. Is that so?

A. Yes.

Q. That is the natural use?

A. That is the natural use.

Q. Then any other use that is made of a ribbon is unnatural; is that it?

278 A. Any other use made of ribbon would be an incident or diversion from its original purpose.

Q. Did you ever manufacture ribbons?

A. I have at one time.

Q. Where?

A. At Germantown.

Q. When?

A. Some years ago.

Q. How long ago?

A. Well, I should say, as far as my memory serves me, I will not be exact upon it, I think it is a matter of fifteen years ago.

Q. Since the duty was fifty per cent.?

Mr. TREMAIN. Well, he don't know the law.

The DISTRICT ATTORNEY. I guess he does. You will find that he does.

Mr. TREMAIN. We object to what the duty was, sir.

Q. Do you know?

A. I don't know.

Q. We won't press that question with you. What are those samples, or at least, pieces of which they are samples, commercially known as?

A. They are commercially known, in my opinion, as fancy millinery ribbons.

Q. Then, if you were speaking of those ribbons, or if you were buying them, or if you were selling them, you would characterize them as bonnet ribbons?

A. I would.

Q. Have you ever bought any of that kind?

A. Yes, sir.

279 Q. Were they invoiced to you as fancy millinery ribbons or simply as ribbons?

A. Well, whenever I bought anything like that I generally bought them from a millinery house, and they might have been inventoried as fancy millinery ribbons or might have been invoiced as——

Q. (Interposing.) You have been on the stand before, and you under-

stand what lawyers mean when they ask questions. I am not asking you to tell me what might have been; I am asking you to tell me what was. Now, if you bought ribbons of that kind I want to know how they were invoiced to you, whether as fancy millinery ribbons or as fancy ribbons?

Mr. TREMAIN. Objected to as immaterial and improper and calling for papers which, if they were here, would not be evidence.

The DISTRICT ATTORNEY. I think I have the right to ask the question.

The COURT. Answer the question.

A. When I said they might, it was a question of memory. They might have been invoiced as fancy ribbons or fancy millinery ribbons.

The COURT. The counsel has asked you when you bought these things how were they designated to you?

A. (Continuing.) They were designated as fancy ribbons or fancy
280 millinery ribbons.

Q. Well, now, which?

A. To tell you the truth, they were fancy millinery ribbons and fancy ribbons.

Q. Do you mean to say you don't know?

A. I can't say for a certainty whether in a majority of cases they were fancy ribbons or fancy millinery ribbons.

Q. Who did you buy them of?

A. I bought them of New York importers, and I gave orders of importation. I also bought some of domestic manufacturers.

Q. Who from; what domestic manufacturer?

A. Well, I bought goods of——

Q. (Interposing.) Any of these gentlemen here?

A. Yes.

Q. Who?

A. I bought of Mr. Strange.

Q. Were his goods invoiced to you as fancy millinery ribbons?

A. Well, I don't know whether the goods came from the domestic manufacturers as such, but Mr. Strange's goods were sold through the importing house of Strange Bros., of New York, who were importers of fancy millinery goods, and who invoiced the domestic goods that came in those days from the manufacturers from their domestic manufactory.

Q. I don't altogether catch your meaning.

A. I mean this, Mr. Reed: That when I bought these goods of the the manufacturer, the invoices came through the house of Strange
281 Brothers, the domestic manufacturers, who were importers of fancy millinery, ribbons, and silks.

Q. How were their ribbons invoiced to you; simply as fancy ribbons, or ribbons, or what?

A. They were various. Some goods as fancy ribbons, and some goods as millinery goods.

Q. When did you lately buy any of those articles?

A. The last time I bought them, I think, was previous to 1885.

Q. What business are you in now?

A. I am in the tobacco business.

Q. How long did you continue in the manufacturing of ribbon?

A. I continued one season.

Q. That was enough for you, was it?
A. No, it wasn't enough; I couldn't get trade enough.

282 GEORGE H. HOFFMAN, sworn and examined.

By Mr. TREMAIN:

Q. Are you a Government officer?
A. I am, sir.
Q. What officer?
A. Assistant appraiser.
Q. What port?
A. Philadelphia.
Q. How long have you been in that position or connected with the present department?
A. Nearly three years—three years on the 7th of this month.
Q. What line goods come under your supervision?
A. Nearly all the lines of goods that are imported—silks and satins, *liquors*, [in pencil, *licorice*] wool, woolens.
Q. Have you had any large experience in ribbons since you have been in the appraiser's department?
A. I have, sir.
Q. Have you passed upon a great many invoices of ribbons?
A. I have approved of quite a number of invoices of ribbons.
Q. Are there any ribbons that are used for ornamenting hats?
A. There are.
283 Q. Are there any ribbons that are used exclusively for the purpose?
A. Well, I can't say——
Q. (Interposing.) For men's hats?
A. Yes, sir; there are hat-bands.
Q. They are ribbons, aint they?
A. They are manufactured of silk.
Q. Are they not ribbons?
A. Yes, sir; they are known as a hat-band commercially.
Q. Well, they are ribbons, aint they?
A. Yes, sir.
Q. They are a class of ribbons?
A. They are a class of ribbons.
Q. You do know of a large class of ribbons that are exclusively used for ornamenting men's hats, do you not?
A. Yes, sir.
Q. Of a variety of styles, of sizes, and qualities?
A. And colors.
Q. They are subjects of importation and of commerce?
A. Yes, sir.
Q. And classified by you at 20%?
A. At 20%.
Q. Is there a large class of ribbons that are generally used for
284 hats and bonnets but that are sometimes used for other purpoess?
A. There are.
Q. Have you seen such commodities as articles of import and commerce?

A. I have.

Q. Are you sufficient of an expert to pick out a ribbon that belongs to the class of ribbons that are exclusively used for trimming men's hats, when you see it?

A. Yes, sir.

Q. Are you sufficient of an expert to pick out a ribbon that is generally used for ornamenting women's hats, when you see it?

A. I think I am, from the experience I have had in the three years of the controversy over this ribbon business.

Q. I show you two samples which I will have marked in a moment and ask you if those are ribbons, and, if so, what are they chiefly used for?

A. Yes; I would call those ribbons.

Q. What are they used for?

A. Used for men's hats to a great extent.

(The samples submitted to witness were marked "Exhibits A and B.")

Q. Do these samples represent a large class of ribbons of this
285 general character that are used exclusively for men's hats?

A. No, sir.

Q. What class of ribbons do they represent, if any? Take sample B, for instance.

A. These samples are used to a great extent for binding straw hats.

Q. Now explain what you mean by the binding?

A. The binding around the rim.

Q. Is that a trimming for men's hats?

A. It is a trimming for around the crown of a hat.

Q. Is that a trimming?

A. Yes, sir.

Q. Now, what are these ribbons, Exhibit A, used for?

A. These are used for going around the crown of men's hats—hat-bands.

Q. You classify articles like this at 20%.

A. 20%.

Q. And always have since you have been in office, haven't you?

A. I think they have, under the decision of the Department.

Q. Irrespective of the material of which they are made?

A. Yes, sir.

Q. Is it a fact that a collection of samples representing samples that are exclusively used for ornamenting hats and bonnets has been provided by the officers of the Government?

A. It is.

286 Q. Is it a fact that a large collection of samples representing ribbons that are generally used for ornamenting hats, bonnets, and hoods, but that sometimes may be used for other purposes, has been prepared under Government direction?

A. Yes, sir.

Q. Is it a fact that appraisers of the five principal ports of the country have united in the description of the book No. 1, that I have just referred to?

The DISTRICT ATTORNEY. One moment; excuse me.

Mr. TREMAIN. Do you object?

The DISTRICT ATTORNEY. I do.

Mr. TREMAIN. I will not press that line of questions.

The DISTRICT ATTORNEY. I object to it certainly in that form.

Cross-examination by the DISTRICT ATTORNEY:

Q. Mr. Hoffman, you say your experience as an appraiser commenced three years ago?

A. Yes, sir.

Q. What was your business before that?

A. In the mercantile business.

287 Q. That is rather a broad phrase?

A. Well, in the dry goods business.

Q. What kind of dry goods?

A. Woolen cloths; cassimeres.

Q. You were in the cloth business, weren't you?

A. I was in the cloth business.

Q. Up to the time that you took your position as Government appraiser?

A. Yes, sir.

Q. And how long had you been in the cloth business?

A. I had been in the cloth business, sir, for 21 years.

Q. And you neither bought nor sold ribbons?

A. No, sir.

Q. So that your experience and the knowledge with which you assume to speak in regard to this subject has all been obtained since you occupied a Government position?

A. Yes, sir.

Q. What do you call these samples Exhibit A and B?

A. I call these hat-bands.

Q. And they are known commercially as hat-bands, are they?

A. Yes, sir.

Q. Bought and sold as hat-bands?

A. Galloons; bindings.

288 Q. When you say that what do you mean?

A. As I stated, it can be used for the binding of straw hats or for the binding of a shoe.

Q. That is their commercial designation?

A. Yes, sir.

Q. Galloons and bindings are Exhibit B, and hat-bands are Exhibit A?

A. Yes, sir.

Redirect examination by Mr. TREMAIN:

Q. Hat-bands, galloons, and bindings are a particular kind or species of ribbons, are they not?

A. They are.

289 MARSHALL J. CORBETT, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Examiner in the appraiser's department, New York City.

Q. What class of commodities have you been familiar with in your official experience in the appraiser's department in New York City?

A. Silk goods, generally.

Q. How long have you been familiar with silk goods, generally, as commodities of commerce, in that capacity?

A. About 18 years.

Q. During that time have you had invoices of various kinds of ribbons under your official cognizance?

A. Yes, sir.

Q. For how many years were you specially employed in respect to ribbons, their value and classification?

A. I think about 6 years.

Q. Did you thereby become familiar with the various kinds of ribbons that are commodities of importation?

A. I did.

290 Q. Can you state whether or no it be a fact that there are any ribbons that are used exclusively for ornamenting men's hats?

A. Well, I don't follow the use of the goods.

Q. I did not ask you about that, sir.

A. I will say that I am not able to answer that question positively.

Q. Can you state whether there are any ribbons that are used for ornamenting hats?

A. I have seen ribbons on hats.

Q. Do you know whether there are any ribbons that are classified as trimmings for making and ornamenting hats, bonnets, and hoods?

A. Not under the name of ribbons.

Q. I do not ask you about names; I am asking you for the fact—whether you know it or not. Yes or no will answer.

A. I can't speak positively regarding that.

Q. Do you mean to say you don't know?

A. I have not classified any of those myself.

Q. Do you not know it to be a fact that some ribbons are classified as hat materials by the Government at 20 %?

A. There are ribbons that they call hat ribbons classified.

Mr. TREMAIN. There are ribbons that are classified by the Government at 20 %. That is all, sir.

291 Cross-examination by the DISTRICT ATTORNEY:

Q. These hat-bands that Mr. Hoffman spoke of are the ones that are assessed at 20 %, are they not?

A. Those cotton ribbons; yes, sir.

Q. Cotton ribbons; isn't that what you call them?

A. I think so; yes, sir. No, these are silk and cotton ribbons. Well, that question as to these—they are frequently called hat-bands and frequently called ribbons; generally hat-bands.

Q. And the duty that they pay is 20 %?

A. 20 %.

Q. Mr. Corbett, is sample, Exhibit A, known commercially as hat-bands or ribbons?

Mr. TREMAIN. I object to that. Well, no; I withdraw it.

A. I think that these are commercially known as hat-bands.

Q. Now, the articles in Exhibit B. What is their commercial designation?

A. There are here a variety of styles. Those two [indicating] are known as hat-bands. Those [indicating] are called lustre galloons; and again [turning samples] we have hat-bands—[turning sample] hat-bands and lustre galloons.

292 Redirect examination by Mr. TREMAIN:

Q. Show me which is the lustre galloons. [Witness indicated.] Having shown the lustre galloons in Exhibits B, is that a ribbon?

A. It is known as galoon.

Q. I did not ask you that.

A. I know it as galloon.

Q. Is it a ribbon?

A. Please define what a ribbon is.

Q. Is it a trimming?

A. It is a galloon.

Q. Is a lustre galloon a trimming?

The DISTRICT ATTORNEY. You are not going to cross-examine your own witness, are you?

Mr. TREMAIN. I am cross-examining about the lustre galloon that you developed.

Q. (Resuming.) Is a lustre galloon a trimming?

A. Will you define trimming in the sense you mean?

Q. Is a hat-band a trimming?

The DISTRICT ATTORNEY. I object to that.

Q. I will just ask you one more question on another subject. How long have you been in attendance at this trial?

A. Two days—three days to-day.

Q. Ordered over here, weren't you?

293 The DISTRICT ATTORNEY. Yes; brought here by me. I brought him here.

294 GASPER C. BARNET, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Dry goods.

Q. Wholesale or retail?

A. Wholesale.

Q. Where?

A. New York.

Q. What is the name of the house?

A. Iseland, Nesner & Co.

Q. What line of goods do they deal in?

A. General dry goods.

Q. Do they deal at wholesale in ribbons?

A. Yes, sir.

Q. Are you familiar with the commercial uses to which ribbons are adapted and employed?

A. Yes, sir.

Q. Is there a class of ribbons that have their substantial commercial value in their adaptation for use as trimmings in making or ornamenting hats?

A. Yes, sir.

Q. How long have such commodities existed as staple commodities in the ribbon trade within your knowledge?

A. Eighteen years within my personal knowledge.

Q. There always has been such commodities, have there not?

A. Within that time.

295 Q. Are you able to distinguish those commodities from other classes of ribbons when you see them?

A. I think so; yes, sir.

Q. Can you tell in what use a ribbon has its chief value when you see it?

A. I can tell what it is best adapted for; yes, sir.

Q. Will you be good enough to look at the samples of ribbons before you and say whether they are chiefly used for trimming hats, bonnets, and hoods, or for other purposes?

A. (After examining samples.) I should say these were all millinery, or hat, bonnet ribbons, made and bought and sold for the purpose of trimming hats and bonnets for women's head-gear.

Q. You should say that was the principal use of those ribbons?

A. Yes, sir.

Q. I speak now of the samples except the samples A and B. I am not asking you about them. Can you name some of the trimmings that your commercial experience has enabled you to state what are the other trimmings that your experience has given you knowledge of?

A. Well, there are trimmings for a variety of uses. Do you mean for hat trimmings principally?

296 Q. No, sir. What other trimmings do you know about?

A. Oh, we have upholsterer's trimming, dress trimming, trimmings for almost any purpose—decorative purposes and all sorts of things.

Q. Do you know what the staple commodities are in the millinery trade as trimmings?

A. Well, the staples, as I understand them, are ribbons, silks—which includes a variety of weavings—plushes, ribbons. The others are flowers, ornaments, and goods of such description. I am not personally familiar with the market on the ornaments. I only know about the things that we sell for that purpose.

Q. You mean that there are particular kinds of silks and particular kinds of velvets that are commodities as trimmings for millinery purposes?

A. Yes, sir.

Q. Specially adapted to them?

A. Yes, sir.

Q. And distinguished from other silks and velvets?

A. Yes, sir.

Q. The same way with ribbons?

A. Yes, sir.

Q. Well, will you state some of the other uses that ribbons as a staple commodity are designed for?

A. Well, we handle ribbons, for instance, for trimming blankets—the ends of blankets.

297 Q. Would that be a millinery ribbon?

A. No, sir; it would not, in my judgment.

Q. A different kind of a ribbon?

A. And we get out ribbons for garters, and perhaps for special purposes for which somebody wants use a ribbon. Then we get that out in

some special form or shape. And we get out ribbons for dress ribbons, and what is known as sashes.

Q. Could you identify a sash ribbon if you should see it?

A. I think I could, sir.

Q. (Submitting sample.) Is that such an article?

A. Well, that is a sash width, sir.

Q. Is such a ribbon as that chiefly used for trimming hats and bonnets?

A. It depends somewhat on the shape in which I saw the ribbon in its original condition; that is, where it came out of the box. Where I saw this ribbon done up on a roll in ten-yard lengths I would infer that that man that put it up wasn't certain whether he wanted to use it for dress purposes, or whether he wanted to use it for millinery. If I saw it done in sash lengths; that is to say, lengths a couple of yards and the ends finished off and laid flat, say half a dozen or so, in a package laid
298 out flat in the box, I should think it would be unquestionably them for dress purposes and none other.

(The last sample was marked Exhibit C.)

Cross-examination by the DISTRICT ATTORNEY:

Q. You have a number of suits against the Government, have you not?

A. We have; yes, sir.

Q. In which this same question is involved as to the duty on silk ribbons?

A. We have suits against the Government where we claim the duty has been assessed at 50% when it should have been 20%.

Q. I understand; whether it should come under the silk article or the hat trimming article, isn't that it?

A. Well, it is whether it should be 20% or 50%.

Q. How many suits have you against the Government?

A. I couldn't tell you.

Q. Quite a number?

A. That depends upon your estimate of what "quite a number" is.

Q. I want your estimate?

A. I couldn't tell you.

Q. Do you know when the first one was commenced?

A. I think I commenced the first one shortly after the 3rd of July, 1883.

299 Q. Been piling them up since then, have you?

A. Well, we have had more or less of those suits brought since then.

Q. How many do you bring in a year?

A. I don't know.

300 JULIUS DIPPEL, sworn and examined.

By Mr. TREMAIN:

Q. What is your house?

A. Passevant & Co.

Q. New York?

A. Yes, sir.

Q. What line of goods?

A. General dry goods.

Q. Has your commercial experience extended over the commodities that are used as trimmings for making and ornamenting hats, bonnets, and hoods?

A. Yes, sir.

Q. How many years does your experience cover?

A. Ten years.

Q. Do you know what particular ribbons are particularly used for that purpose?

The WITNESS. Which purpose do you mean; for millinery?

Mr. TREMAINE. Yes.

A. Yes, sir.

Q. Can you tell when you see samples of ribbons whether they represent millinery commodities or not?

A. I think I could.

Q. Will you please look at the ribbons represented by the samples now shown you, and say if you can what is their chief use?

A. I should consider them used for millinery purposes.

301 Q. Is that their chief use?

A. That is my opinion.

Cross-examination by the DISTRICT ATTORNEY:

Q. Mr. Dippel, how many suits has your house brought?

A. I couldn't tell you.

Q. They have brought some, haven't they?

A. They have.

Q. Involving this same question?

A. Yes, sir.

Q. What are those ribbons known as; what is their commercial designation?

A. Well, they are ribbons—fancy ribbons.

Q. That is wh't they are bought as, and that is what they are sold as?

A. Fancy ribbons are ribbons used in the millinery line.

Q. Is that part of their commercial designation—ribbons used in the millinery line?

A. Well, we call them fancy ribbons. We thought it would be understood that this ribbon would be used in the millinery line. That is the way we would consider it.

Q. That is all right. I don't object to your saying they are

302 used for that purpose. I understand you were brought here to testify to that effect, and you have testified to it. But I want to know what is the commercial designation of the ribbon of which you have samples before you.

A. Fancy ribbons, sir.

Q. Bought as fancy ribbons?

A. Yes, sir.

Q. Sold as fancy ribbon?

A. Yes, sir.

Q. And imported as a fancy ribbon?

A. Imported as a fancy ribbon.

Q. And when it is sold to a person who is going to put it on a bonnet,

or who is going to cater for the millinery trade, then it becomes millinery ribbon?

A. Brought out for millinery purposes.

Q. Brought out to be sold to milliners, isn't it?

A. Not specially; anybody can buy it.

Q. A moment ago I understood you to say it brought out for that purpose.

A. We bring them out, anything that milliners are buying for ribbons.

Q. Anything to sell them to milliners?

A. Yes, sir.

Q. So that they will adapt them to their business?

A. Yes, sir.

Q. Put them on the bonnets they make?

A. Put them on the bonnets they make.

303 Q. Of course you don't object to selling them to other people?

A. They can use them for anything they like.

Q. You frequently do sell them to other people, do you not?

A. Yes, sir.

Q. I understood you to say to my friend that the chief use of that ribbon was for millinery purposes?

A. I say that again.

Q. Does that apply to the time when it is imported or the time when that kind of ribbon is used on certain bonnets?

A. The time when it is imported.

Q. Well, what is it's chief use now, supposing Mr. Wanamaker has not sold all that importation?

A. He would sell it as a job lot.

Q. For what purpose?

A. An article like that is very cheap, and it can be used for ornamenting different things.

Q. Then, in point of fact, the ribbon that is imported as fancy ribbon answers many different purposes?

A. Yes; they can make it answer.

Q. Well, they do, don't they?

A. They do.

Q. Some ribbons are more saleable then others, are they not?

A. More saleable, of course.

304 Q. I mean of the different kinds—fancy kinds?

A. It depends upon the style.

Q. But I think your experience teaches you that some styles are more taking than others, aren't they?

A. Oh, certainly.

A. And that you may carry over a large stock of some importations when you don't carry others?

A. They frequently do.

Q. Then in that case a large portion of the ribbons imported would not be chiefly used for bonnets, would it?

A. Ask that question again.

Q. For instance, taking an invoice of ribbons that did not prove to be a taking ribbon, and if you didn't sell many of them to milliners, the chief use of that ribbon would not be for millinery purposes, would it?

A. I don't know. We might be apt to sell it so cheap we would make something of it, and that some milliners would use them.

Q. Use them for what?

A. I don't know what they would use them for.

Q. You*n* would sell the goods?

A. Yes; we would get rid of them at some price; sell anything at some price.

305 Q. No matter what it is used for?

A. We don't question them what it is used for.

Redirect examination by Mr. TREMAIN:

Q. Just tell us what is meant by a "job lot"?

A. That is our phrase.

Q. Commercially, what does it mean?

A. An article that is manufactured or brought out for a certain thing, for certain uses. After it is brought out or manufactured it doesn't take with the trade, and we want to sell and we reduce the price 25 per cent., and sometimes 50 per cent., and sometimes sell them for 25 cents on the dollar.

Q. And they go f*l*or any purpose, not necessarily their original purpose?

A. No, sir; not necessarily their original purpose.

306 WILLIS N. LEIGHTON, sworn and examined.

By Mr. TREMAIN:

Q. What is your business, Mr. Leighton?

A. I am the general buyer of Sharpless Bros., of this city.

Q. Where is Sharpless Bros.?

A. Eighth and Chestnut streets, Philadelphia.

Q. What do they do?

A. They sell dry goods generally—general dry goods.

Q. How long have you be'n the buyer?

A. I have been with them almost six years. I have been a buyer ever since I have been there.

Q. What class of goods come under your special recognition?

A. Ribbons, lace goods.

Q. Do you buy ribbons at wholesale?

A. Yes, sir.

Q. How long have you been familiar with that class of commodities?

A. Fifteen or sixteen years.

Q. Well, you know something about ribbons are used for, don't you?

A. I think I do.

Q. And you have had some experience with respect to the sales of them over the counter, I suppose?

A. Yes, sir.

307 Q. You superintend that, don't you

A. I do.

Q. Have various departments, do you not?

A. I do.

Q. Have a millinery department?

A. Yes, sir.

Q. What is the chief trimming; what is the chief commodity which you use for trimmings?

A. I think ribbons are used more than anything else.

Q. Has that always been so since you have been in the business?

A. Yes; so far as I know.

Q. Can you tell when you see a ribbon whether its chief use, commercially speaking, is to trim hats, bonnets, and hoods, or something else?

A. I think I can.

Q. Will you kindly look at Mr. Wanamaker's samples before you and say whether their principal use is for trimming hats, bonnets, and hoods, or not?

A. I should consider them strictly millinery.

Q. By that you mean the chief use, do you?

A. Yes, sir; I think that is their principal use.

Q. What do you mean by millinery; trimming for hats, bonnets, and hoods?

A. Well, millinery applies to ladies' head-wear.

Q. When you say their principal use is for millinery, do you mean millinery trimmings?

A. Yes, sir.

308 Cross-examination by the DISTRICT ATTORNEY:

Q. What position do you hold with Sharpless and Bros.?

A. I am general buyer.

Q. Where does the firm get its ribbons, chiefly?

A. We get them chiefly in this market.

Q. In the domestic markets?

A. Yes, sir.

Q. Where do your duties end? Do you have anything to do with the sales of the ribbon?

A. I do sell them sometimes.

Q. Well, to what extent; I don't ask you about sometimes, but to what extent?

A. Well, I superintend the department. The ribbon department is all it is. I superintend that department, and I look after the sales—look after the people to see that they sell the goods; and I know what they sell, and what they want to sell, and what the demand is.

Q. Now, I understand you to say, Mr. Leighton, that you have charge of the ribbon department at Sharpless'?

A. Yes, sir.

Q. Have you also charge of the millinery department?

A. I have.

309 Q. That is under a distinct head?

A. No, sir; connected with the ribbon department.

Q. Didn't I understand you to say you had charge of the ribbon department and not of the millinery department?

A. I said I had charge of that department, and I was a general buyer, now. But I say I have been a buyer for the millinery department for one season.

Q. I don't think you understand my meaning. Have you at present the supervision of the millinery department?

A. No, sir.

Q. You have charge, however, of the ribbon department?

A. I have now; yes, sir.

Q. Now, then, are those two departments situated together at Sharpless and Bros.?

A. They work together.

Q. I am not a king you that. I am asking you whether they are located in the same part of the store?

A. They are right close to each other.

Q. Where are they?

A. The ribbon department is out to the front part of the store on the first floor, and the next counter following is the trimmings, feathers, and ornaments and flowers. The piece goods are up-stairs. I mean untrimmed bonnets and trimmed goods are up-stairs.

310 Q. So your trimmed and untrimmed bonnets are on one floor and your ribbons are on another?

A. Yes, sir.

Mr. TREMAIN. He didn't say that.

Q. Did you not say that your trimmed and untrimmed bonnets were on one floor and your ribbons were on another?

A. Yes, sir; they are now. They have been changed to-day.

Q. Now, then, Mr. Leighton, when you purchase an invoice of ribbons, or if you don't purchase ribbons from domestic manufacturers, where do those ribbons go to?

The WITNESS. When I purchase from manufacturers?

The DISTRICT ATTORNEY. Yes.

A. They come to me.

Q. And where do you put them; on the ribbon counter, or in the hat department, on the second floor?

A. Some are put in the ribbon department and some in the hat department. They have been until quite lately—yesterday.

Q. Are your ribbons largely put in the ribbon counter, or not?

A. Yes, sir; the greater quantity of them are put in the ribbon counter.

Q. In purchasing those ribbons, by what trade designation do you buy them?

A. Different trade designations.

Q. What are they?

311 A. We buy them as ribbons, buy them as millinery ribbons, buy them as fancy ribbons, as fancy millinery ribbons, as fancy goods generally.

Q. What is the general trade designation for goods of that quality?

A. There is no general trade designation that I know of. We call them any name.

Q. Isn't it a fact that they are generally purchased as ribbons, or fancy ribbons?

A. They are purchased either as fancy ribbons, or fancy millinery ribbons.

Q. I understand you to say now that they are generally purchased either as ribbons or fancy ribbons?

A. As fancy millinery ribbons, too, I say.

Q. You sell them over your counters for all purposes?

A. We do.

Q. And you sell them as ribbons, do you not?

A. We do.

Q. They are not commercially known as hat trimmings, are they?

A. We sell them for millinery trimmings.

Q. I am not asking what you sell them for. I am only asking, are they commercially known as for use in ornamenting hats?

A. They are.

Q. Didn't I understand you to say that they are commercially known as fancy ribbons?

A. I say they are commercially known as fancy ribbons, as rib-
312 bons generally, and as bonnet and hat trimmings—bonnet and trimming ribbons.

Q. Now, then, you say that you are able to state exactly for what purpose these ribbons are used, and you say they are strictly bonnet trimmings. Are not these ribbons suitable for other purposes?

A. Well, they can be used for other purposes.

Q. And are they not?

A. I think they are.

Q. Wouldn't ribbon No. 6669 be suitable for trimming a bonnet?

A. Yes, sir.

Q. Now, then, is there anything in the width of a ribbon that makes it a hat trimming rather than a dress trimming?

A. I shouldn't consider there was.

Q. Is there anything in the color?

A. There are some ribbons not adapted to use in millinery.

Q. I understand that. I understand you to say there is nothing in the width. Now, is there anything in the color?

A. That depends on the taste of the person that buys it.

Q. Certainly, it depends upon the taste of every individual purchaser. But all colors are used in trimming bonnets, are they not?

A. Yes, sir.

313 Q. And all ribbons are used for trimming, ornamenting, and decorative purposes. So that there is nothing in the color, is there?

A. I don't think there is.

Q. Is there anything in the quality?

A. I don't think that makes much difference. I think people want cheap goods as well as expensive.

Q. Then isn't it a fact that when you make a purchase of ribbons and set aside some portion of it for bonnet trimmings, you call those millinery ribbons; but they are indifferently adapted to all purposes?

A. I think we sell most all kinds of ribbons we have in stock for millinery purposes.

Q. But sell them for other purposes as well?

A. Sell them for other purposes as well.

Q. And when a person comes to your ribbon counter, you don't ask them for what purpose they want ribbons?

A. If a person comes and appears to be ignorant we tell them.

Q. But in the retail trade, you don't generally ask them?

A. Quite frequently we do. We always try to find out what our customers want. Very often they don't know what they want.

314 Q. Now, in the event that a purchaser would tell you he wanted a ribbon for another purpose than trimming a hat, would you make any difference in the price?

A. We make one price, only.

Redirect examination by Mr. TREMAIN:

Q. Were you speaking about the retail trade in answering the district attorney?

A. I am speaking about what I know generally about ribbons in the selling of them. I don't know whether it applied to wholesale or retail.

Q. You buy at wholesale?

A. Yes, sir.

Q. And you buy for particular uses?

A. Yes, sir.

315 ROBERT J. KEEGAN, sworn and examined.

By Mr. TREMAIN:

Q. What is your business?

A. Examiner in the United States Treasurer's Department.

Q. How long have you been an examiner?

A. Since the 6th of July, 1886.

Q. In Philadelphia?

A. Yes, sir.

Q. Under what appraiser?

A. Col. Baker.

Q. Which department of the appraiser's office; what kind of goods?

A. Silk goods, principally.

Q. Did the invoices in this case come under your examination?

A. Well, I couldn't say all of them.

Q. Well, I will show you one. I show you one of the invoices by the British Prince, of March 17, 1887, and ask you if that invoice came under your official supervision?

A. No, sir.

Q. Has that invoice never been before you?

A. No, sir; before Mr. Fisher.

Q. Do you see any of your writing there.

A. Yes, sir.

Q. What is your writing?

316 A. My writing is the check placed on the invoice when it was presented to me for reconsideration.

Q. When was that?

A. Well, I couldn't state exactly the time.

Q. Then it has been before your official cognizance?

A. Yes, sir.

Q. During the last year?

A. Yes, sir.

Q. What is in your handwriting there? Read it.

The DISTRICT ATTORNEY. I object to that. It is no part of the invoice. You can ask the witness what he considers them to be.

Q. Now, look at the pages of that invoice again and see if it has not been under your official cognizance?

A. To a certain extent it has; yes, sir.

Q. Now show me the packages.

A. The original packages were never under my supervision.

Q. Well, read me the numbers of the packages that were in any way under your official cognizance?

A. Case No. 1182.

Q. Now, read that part of the invoice relating to case 1182.

317 Mr. TREMAIN: I will read it: "Package 1182, for millinery purposes. Pieces of 10 metres. Fancy ribbons." Then stating prices and pattern numbers. Then follows "discount." Then follows, "five lines, trimmings for millinery," with the discount and prices and charges.

Q. Now, you had official cognizance of that package, didn't you?

A. Yes, sir; not the original package; only the samples taken from that package.

Q. You had official cognizance of samples taken from that package, and as a result of that official cognizance you made a memorandum, didn't you?

A. Yes, sir.

Q. And that is the memorandum pinned to that invoice?

A. Yes, sir.

Q. Now read it.

A. (Reading.) "Hat trimmings. 10 pieces of fancy ribbons. Numbers 133, 127 [in pencil, 137], 159, and 164, in case 1182."

Q. That relates to that case, doesn't it?

A. Yes, sir.

Q. Now, I will show an invoice by the Lord *Clyde* [in pencil, *Clive*], one under your official cognizance.

A. Just in the same manner as the last one.

Q. And did you make a memorandum?

A. Yes, sir.

Q. And what is that memorandum?

318 A. "Hat trimmings for case 1182 [in pencil, 1159], 4 pieces; patterns 153, 110, and 131."

Q. Now, I show you another invoice by the British King, and ask you if that invoice came under your official cognizance?

A. Yes, sir.

Q. What package?

A. All of them—the entire invoice I passed upon.

Q. Originally?

A. No, sir; not the entire invoice. Case 1279.

Q. You classified that, didn't you?

A. Yes, sir.

Q. Now, read the memorandum you made relating to that package?

A. (Reading.) "All the silk ribbons and velvets in case 1279 are hat trimmings."

Q. Now, the invoice I showed you a moment ago, immediately preceding the last case, 1159—just read that case, if you please.

A. (Reading.) "4 pieces of fancy ribbon for millinery, 10 metres each. No. 12, 1 piece, pattern 53 [in pencil, 153]; 1 piece, pattern 110; 1 piece, pattern 131."

Q. Now, it is in relation to that package that you made the memorandum "hat trimmings, 1159?"

A. Yes, sir.

Q. Now, I show you the invoice of case 1267, being an invoice by the Indiana, and ask you if that came under your official cognizance?

A. Yes, sir.

319 Q. Now please read package No. 1267.

A. One piece of ribbon for millinery purposes, colored, 22 lines, pattern No. 200; 4 pieces ditto, 22 lines, pattern No. 216; 5 pieces, 12 lines, pattern 217; 2 pieces, 22 lines, pattern 231; 3 pieces, 16 lines, pattern 233; 2 pieces, 22 lines, pattern 235; 4 pieces, 13 [in pencil, 12] lines, pattern 243 *B.* [in pencil, *Bisque*]; 4 pieces, 12 lines, pattern 249; one piece, 22 lines, pattern 270; 3 pieces, 22 lines, pattern 278; 4 pieces, 60 lines, pattern 289; 2 pieces, black, 12 lines, pattern 306; 2 pieces, 22 lines, pattern 306.

Q. Is that your memorandum across that package?

A. No, sir; I don't think it is.

Q. Is that your memorandum at the top of the invoice, pinned to it?

A. Yes, sir.

Q. Read that.

A. (Reading.) "All the ribbons in case 1267 are hat trimmings."

Q. Now, I show you another invoice, being one of the invoices in question.

At this point, 4 o'clock p. m., the court adjourned until to-morrow morning at 10 o'clock.

320 U. S. circuit court, eastern district of Pennsylvania. October term.

WANAMAKER *vs.* CADWALADER.

Before Hon. William McKennan, justice, and a jury.

THIRD DAY.

PHILADELPHIA, *Friday, October 5th*, 1888.

Present: Messrs. Tremaine, Prichard, and Kingston for plaintiff; the district attorney for the Government.

Continuation of examination of ROBERT J. KEEGAN.

By Mr. TREMAINE:

Q. I show you an invoice, being one of the invoices in question, by the "British King," 19th of September, 1887, and ask you if that invoice also came under your official cognizance?

A. Yes, sir; one case—package.

321 Q. Which package?

A. Case 1279.

Q. Read the remainder of case 1279.

A. (Reading:) "Nine pieces, ten metres, ribbon for millinery, number 12, pattern 308; one piece, 22 lines, pattern 272; one piece, 22 lines, pat-

tern 231; one piece 22 lines, pattern 270; one piece, 22 lines, pattern 200; one piece, 22 lines, pattern 277; two pieces, 16 lines, pattern 248; one piece, 16 lines, pattern 233; one piece, 250 metres, pattern 233; 16 lines, one piece, 12 lines, pattern 243; two pieces, 12 lines, pattern 313; one piece, 33 centimetres wide, velvet for millinery."

Q. Did you make a memorandum in respect to that case?

A. Yes, sir; but not at the time originally passed.

Q. When did you make that memorandum?

A. Some time afterwards. I do not know the exact date.

Q. As the result of your official review of that invoice?

A. Yes, sir.

Q. What is that memorandum?

(Objected to, because the memorandum will speak for itself, and is not material if it was not made at the time.)

The COURT. He is reading his own memorandum.

322 The DISTRICT ATTORNEY. Do you think it is material as to what memoranda he made long after the entries were made?

The COURT. In the discharge of his official duty; it does not make any difference whether it was done just at the time or after. It was what he did as an officer.

Mr. TREMAIN. I understand that his testimony is, substantially, that he had these invoices before him in the performance of his official duty.

The DISTRICT ATTORNEY. And that he classified them afterwards.

Mr. TREMAIN. Not that he classified them; that he had before him samples of the patterns which he has read from the invoices, and as the result of that official performance of duty he made a memorandum in his own handwriting. I simply want to prove that fact.

The COURT. It is part of his official action.

(Objection overruled.)

The WITNESS. (Reading:) "All the silk ribbon and velvet in case 1279 are hat trimmings."

By Mr. TREMAIN:

Q. I show you the invoice, among those in this suit, by the "British Prince," and ask you whether that invoice, in respect to case
323 1290, came under your official cognizance?

A. Yes, sir.

Q. Please read that case on the invoice 1290?

A. (Reading:) "For millinery purposes, one piece, 10 metres, fancy ribbons, 16 lines, pattern 287; one piece, 16 lines, pattern 218; one piece, 22 lines, pattern 231; one piece, 16 lines, pattern 233; two pieces, 22 lines, pattern 277; two pieces, 12 lines, pattern 313;" 12 lines of number 12, that is.

Q. Did you make a memorandum as a result of your official cognizance of that case?

A. This memorandum was not made at the time that I had the case opened or when I examined it first. This memorandum was made afterwards, after the goods had been passed upon as a matter of due consideration?

Q. Did you originally see that invoice when it was a subject of importation?

A. Yes, sir.

Q. It came under your official cognizance at that time?
A. Yes, sir.
Q. You saw it again afterwards?
A. Yes, sir.
Q. Did you make a memorandum at any time when that invoice was under your official cognizance?
A. Yes, sir.
324 Q. Please read that memorandum.
A. (Reading:) "All the ribbon in case 1290 are hat trimmings."
Q. What does No. 16 mean?
A. The width.
Q. When you read the line, number so and so, what did you mean?
A. I thought probably it was 16 lines, but it would not make very much difference, as all had relation to the width of the ribbon.
Q. When you speak of a ribbon of so many lines it relates to its width?
A. Yes, sir; the number; either No. 9 or 17 lines.
Q. That is one method of distinguishing one ribbon from another, is it not?
A. Yes, sir.
Q. I show you an invoice by the "British Princess" of March 24th, 1887, and ask you if that invoice at any time came under your official cognizance?
A. I did not originally pass upon this invoice.
Q. Did the invoice come under your official cognizance?
A. No, sir; not originally.
Q. Did the invoice at any time come under your official cognizance?
A. Yes, sir.
Q. Which case.
A. 1193. There is only one case here in question.
325 Q. As the result of that cognizance, did you make a memorandum?
A. Yes, sir.
Q. Read that.
A. (Reading:) "Hat trimmings, 60 pieces, pattern 159, and one piece 153.
Q. Read those pieces in the invoice.
A. "Six pieces, 10 metres, fancy ribbon, pattern 59, line 12; one piece, pattern No. 153, No. 16, for millinery purposes."

Cross-examination by the DISTRICT ATTORNEY:

Q. The memoranda that you have testified about, and which are annexed to the invoices, but are not part of the invoices, were made by you, when?
A. I cannot tell the exact date.
Q. Long after the goods were entered?
A. Yes, sir.
Q. Delivered to Mr. Wanamaker?
A. Yes, sir.
Q. Long after the duties had been paid?
A. As far as I know. I do not know when the duties were paid.

Q. I understood you to say yesterday that you had been in the Government employ for two years; is that so?

A. Over two years.

326 Q. What was your business before you went into the Government service?

A. I was connected with my brother in the manufacturing business.

Q. Of what?

A. Of cotton and woolen goods.

Q. Did he manufacture ribbon?

A. No, sir.

Q. Did he sell them or buy them?

A. No, sir.

Q. When did you go into the Government service?

A. I was appointed in the Government service on the 15th of January, 1885, and assigned to the ribbon department or silk department to assist Mr. Fisher, who was the examiner.

Q. On January 15th, 1885?

A. Yes, sir.

Q. Are you sure about that?

A. I think so.

Q. Was it not January 15th, 1886?

A. No; I do not think so.

Q. Just think a minute.

A. I do not th nk so.

Q. You were appointed and classified as a laborer, were you not?

A. Yes, sir; and assigned to the silk department.

Q. How long did you perform the duties of laborer?

A. Until, I think, about the 8th or 10th of February, 1886, when I was appointed sampler, which is the same position. There is no dis-

327 tinction any more than there is a difference of a hundred dollars in the pay.

Q. So the duties of laborer and sampler were identical?

A. Yes, sir; just the same responsibility.

Q. But you got one hundred dollars more pay?

A. Yes, sir.

Q. When were you appointed examiner?

A. I passed the civil service examination in June and was appointed examiner on the 8th of July, 1887.

Q. So that you have been an examiner in the custom service for a little over a year?

A. Yes, sir.

Q. And a laborer and a sampler for a little over two years?

Q. Yes, sir. I accepted the position of laborer with the understanding that was the only position open at that time.

Q. Perhaps you are able to state from memory without my showing you the invoices. Is it not a fact that in all these cases where silk and ribbons were in question, that they had already been classified, and the duty assessed upon them by appraisers prior to your examination?

A. No, sir; not exactly; some of them were passed upon by myself as examiner.

328 Q. Take, for instance, this invoice of the British Prince, about which you have testified. By whom was that examined and classified?

A. 1182 is the number of the case. This was examined and passed upon by Mr. Fisher.

Q. Classified as silk ribbon?

A. Yes, sir.

Q. And duty assessed on it at what rate?

A. Fifty per cent.

Q. When?

A. It is dated the 24th of March.

Q. Mr. Fisher classified it March 24th, 1887?

A. Yes, sir.

Q. When did you make this memorandum?

A. As to the date I could not tell you exactly.

Q. About?

A. I suppose some three or four months ago. I could tell positively at the office.

Q. Look at this one and state who classified it, and who assessed the duty on it.

A. It is not on it.

Q. As to the invoice per British Princess?

A. That was passed upon by Mr. Kerr the 1st of April, 1887.

Q. Classified as silk ribbons?

A. Yes, sir.

Q. Duty assessed at fifty per cent.?

A. Yes, sir,

Q. When?

A. April 1st, 1887.

Q. When did you examine it?

A. About the same time, three or four months ago.

329 Q. Do you mean to say you made the examination of that invoice at the same time you made the examination of the other?

A. Yes, sir; that is, the examination of this sample.

Q. Three or four months ago?

A. Yes, sir; I can't tell exactly now.

Q. Several months after Mr. Kerr had examined it?

A. Yes, sir.

Q. Look at that one.

A. This was passed upon by Mr. Fisher, March, 1887.

Q. Classified as silk ribbon?

A. I should judge so.

Q. Duty assessed at 50 per cent.?

A. Yes, sir.

Q. When did you examine them?

A. Some three or four months ago. This is "Lord Clive," case 1159.

Q. Look at this one, the "British Prince."

A. That was passed upon originally by myself.

Q. Classified as silk ribbon?

A. Yes, sir.

Q. Duty assessed at 50 per cent.?

A. Yes, sir.
Q. When did you do that?
A. October 8th, 1887.
Q. When did you make the memorandum?
A. Some three or four months ago. I do not recollect the exact date.
Q. The "British King." Look at that one.
330 A. I passed upon one case in this importation—case 1279.
Q. When?
A. September 29th, 1887.
Q. Classified it as what?
A. Silk ribbon.
Q. Assessed the duty at 50 per cent.?
A. Yes, sir.
Q. When did you make that memorandum, about?
A. Some three or four months ago.

Redirect examination by Mr. TREMAIN:

Q. Do you know Mr. Baker, the appraiser?
A. Yes, sir; I know him intimately.
Q. Do these invoices bear his approval of what you did in your official capacity as common—examiner?
(Objected to, because the record will speak for itself.)
Q. Look at the invoices about to be shown you now and state what you did in respect to your official cognizance of them that was approved.
(Objected to.)
Q. State whether there is any memorandum upon them of the appraiser, Baker.
331 (Objected to, as the record will speak for itself, and Mr. Baker is in the city and can be called.
Q. Did you act on these invoices under any official directions?
A. Yes, sir.
Q. State the circumstances.
(Objected to.)

Mr. TREMAIN. I think that is proper under redirect, the cross-examination having brought out what he did at a subsequent time. I think I can ask him the circumstances under which he made those memoranda.

The DISTRICT ATTORNEY. I hardly think my friend is right. He brought out all of the facts connected with this witness' action as to what he did, and when he did it, and I confined my cross-examination simply to the elaboration of that fact and simply to call his attention to the fact that the invoices themselves, which was the subject of this dispute, showed the official action of himself and of other official appraisers and examiners, and I rested there and I am quite sure no part of my cross-examination justifies him in asking his witness whether what he did met with the approval of his superior officer, nor do I think it is material whether it did or did not. That is not the question we are trying in this case, as
332 to whether this witness' official action met with the approval of his chief or not. The question in this case is, whether these particular articles are subject to a duty under one classification, or subject to a duty under another, and it neither makes for the plaintiff or defendant to show that this witness thinks so or Mr. Baker thinks so, any more than to the extent they called the witnesses yesterday who were engaged in this

line of business. If they wish to show by Colonel Baker or Mr. Keegan that they think these articles ought to be classified as materials for making or ornamenting hats, that is one case. It can not be claimed that he can show that Mr. Baker approved of his action, and if he did, it supports the contention of the plaintiff. I am sure it is not redirect examination.

Mr. TREMAIN. The direction we desire to confine ourselves to on the redirect examination grows out of the circumstance brought out solely on the cross-examination of this witness; that some of the memoranda that he made were made after the importations, and after the invoices had once been before the appraiser. That fact was brought out exclusively under cross-examination.

333 The COURT. It does not make any difference. That is a matter in the discretion of the court.

Mr. TREMAIN. All I want to show is what were the circumstances under which these memoranda were made which he has testified to under cross-examination were made later.

The COURT. The object is to show how the officers of the Government charged with the duty of classifying these articles designated them.

Mr. TREMAIN. To show what they did about this.

The DISTRICT ATTORNEY. That is not the purpose. These goods were classified months before this witness made these memoranda. What my friend is trying to get in is what was the witness' purpose, and why did he make the memoranda?

Mr. TREMAIN. What were the circumstances?

The COURT. As bearing upon the reason of their official act.

By Mr. TREMAIN:

Q. On cross-examination you testified that in respect to some of the memoranda which you had mentioned in your examination in chief, you made them subsequently to the original importation, and after the goods had been delivered to the plaintiff. In respect to these memoranda

334 thus made, please state the circumstances under which they were made.

The DISTRICT ATTORNEY. I object to the question for the reason it is not material to this inquiry.

(Objection overruled. Exception taken by the district attorney.)

A. I can not give the date, but the Secretary of the Treasury, through the——

The DISTRICT ATTORNEY. I want you to produce any documents you are testifying about. I can not permit you to testify to what you understand.

The WITNESS. I can not produce the letter.

The DISTICT ATTORNEY. I object to your testifying to mere record information.

The WITNESS. Not now; I probably could if you gave me time to produce the letters.

By Mr. TREMAIN:

Q. State the circumstances under which you made the memoranda.

A. the circumstances were, in our opinion——

The DISTRICT ATTORNEY. Never mind your opinion——

The WITNESS. In my opinion——

The DISTRICT ATTORNEY. State the circumstances. That is not the circumstances——

335 The WITNESS. The goods in these invoices were known as hat trimmings and entitled to classifications of 20 per cent.

By Mr. TREMAIN:

Q. You were told to do that?
A. Yes, sir.
Q. Who told you?
A. I believe Colonel Baker.
Q. Appraiser of the port?
A. Yes, sir.
Q. When was it he told you to do that?
A. At the time these invoices were handed to me. I do not know the exact date.
Q. As near as you can remember, at the time the invoices were made?
A. Yes, sir; I made it after the invoices were turned over to me by the appraiser.

By the COURT:

Q. And that was after the classification had been made and the duty paid, 50 per cent.?
A. Yes, sir.
Q. You were directed to note on the invoices that they were hat trimmings and subject to only 20 per cent.?
A. Yes, sir.

By Mr. TREMAIN:

Q. That was done subsequent to May, 1888, was it not?
A. Yes, sir.

336 HENRY W. RISING, sworn and examined.

By Mr. TREMAIN:

Q. You are a merchant?
A. Yes, sir.
Q. What class of commodities are you familiar with?
A. With dry goods.
Q. Are you familiar with the staple commodities that are used as trimmings for making and ornamenting hats, bonnets, and hoods?
A. Yes, sir.
Q. How long have you been familiar with that class of commodities?
A. For eighteen years.
Q. Buying and selling at wholesale?
A. Yes, sir.
Q. In the principal markets of this country?
A. Yes, sir.
Q. Imported and domestic goods, both?
A. Yes, sir.
Q. What are some of those sample commodities?
A. In which the house I am connected with deal?
Q. From your experience in the trade, what are some of the sample

commodities that are trimmings used for making or ornamenting hats, bonnets, and hoods?

A. Ribbons, silks, velvets, flowers, laces, and so forth.

Q. What are ribbons?

A. Ribbons are trimmings.

337 Q. They are not used for any other commercial purpose, are they?

A. Their intention is as trimmings. They can be used for any purpose.

Q. That is their commercial purpose—to trim?

A. Yes, sir.

Q. Can you tell a ribbon that has its commercial value to trim hats, bonnets, and hoods?

A. Yes, sir.

Q. Please look at some of the samples shown you, or all of them, and tell the jury what their chief use is (handing witness Wanamaker's samples)?

A. Their chief use would be for bonnet trimming, millinery ribbons.

Q. Is that their principal use?

A. Yes, sir.

Q. Have you seen hats trimmed with such ribbons?

A. Yes, sir.

Q. As a commercial article?

A. Yes, sir.

Q. Please tell me whether this hat is trimmed with that ribbon or not (showing witness bonnet marked No. 1205); whether that represents the use of such ribbon.

A. Yes, sir.

Q. Is that the same class of goods represented by those samples?

A. Yes, sir.

Q. Is this (handing witness bonnet marked No. 1318)?

338 A. No sample here the same as that.

Q. Is this the same class?

A. Yes, sir.

Q. Are these hats commodities in that form?

A. As they are?

Q. Yes; trimmed. Are they staple commodities trimmed?

A. Yes, sir.

Q. And untrimmed?

A. Yes, sir.

Q. And are the trimmings staple commodities when separated from the hat?

A. Yes, sir.

Q. Is this other hat trimmed with ribbons of that class? (Hat marked No. 1317, shown witness.)

A. That is the same class of goods; yes, sir.

Q. (Showing witness hat marked 633.) Is that trimmed with the same class of trimmings?

A. Yes, sir.

Q. Do those samples fairly represent the use to which those articles represented by the samples in your hands are put?

A. Yes, sir.
Q. That is their commercial purpose and general use?
A. Yes, sir.
Q. What is the name of your house?
A. Obegg, Binker & Co.
Q. Large wholesale house?
A. Yes, sir.

339 Cross-examination by the DISTRICT ATTORNEY:

Q. What is the commercial designation of that article (showing witness ribbon attached to bonnet)?
A. That is a bonnet ribbon.
Q. Known as bonnet ribbon?
A. It is called that. It is known as ribbon.
Q. Is that the way you sell it?
A. Yes, sir.
Q. Is that the way you buy it?
A. Yes, sir.
Q. It is not called a trimming until it is on the hat?
A. It is a trimming.
Q. When it is on the hat?
A. No, sir; before it is on the hat.
Q. Do you mean to tell me when you have these pieces of ribbon in cartoons or boxes you call them trimmings distinguished from ribbons?
A. We call them ribbons.
Q. You call them ribbons when you have them for sale in the store?
A. They are trimmings.
Q. Do you not call these articles ribbons when you have them in your store and on your shelves for sale?
A. Yes, sir.
Q. And so you invoice them to your customers?

340 A. Not necessarily.
Q. Do you?
A. No, sir
Q. How do you invoice them?
A. We invoice them by the name or pattern numbers.
Q. Of the ribbon?
A. We invoice them by the invoice or name of pattern number. A name, a brand, such as "Pioneer," "Puritan," or whatever the name may be.
Q. What are they called in the millinery trade? Bonnet strings, are they not?
A. Yes, sir.
Q. Not called trimmings?
A. That is a string. The principal part is a trimming.
Q. That is what you call the trimmings on the hat [indicating]?
A. I am not a milliner.
Q. You know something about the designations that milliners give to their wares, do you not?
A. In a general way; yes, sir.
Q. The milliners call these bonnet strings?

A. I never interviewed them. I don't know.
Q. You really do not know?
A. No, sir; under oath I could not say. I have not talked with them about that.
Q. What is the fashion this season in bonnets?
341 A. That I do not know, either. What the fashion in bonnets is; no, sir.
Q. You do not know whether they are trimmed with ribbons this fall, or feathers and flowers, or beads?
A. That I do.
Q. Which is it?
A. That they are trimmed to fashion. That point I do not know.
Q. You do not know what is the prevailing method of trimming hats to-day?
A. Trimming; yes, sir.
Q. What is it?
A. To trim them with ribbon.
Q. You say that?
A. Yes, sir.
Q. And not to trim them with feathers and flowers and beads?
A. I do not say "not to trim them." I say there is a fashion to trim with ribbons.
Q. What is the prevailing fashion now?
A. I am not an expert in that. I am not an expert as a milliner.

By Mr. TREMAIN:

Q. You are not an expert on fashions?
A. No, sir.

By the DISTRICT ATTORNEY:

Q. You know something about the demands of the trade, do you not?
A. I know what I sell.
Q. What do you sell?
A. We sell ribbon.
342 Q. Do you sell flowers, feathers, and beads?
A. We sell only ribbon.
Q. Only ribbon?
A. As millinery goods; yes, sir. That is all I am familiar with.
Q. Your house is interested in a number of suits against the Government for like duties?
A. I believe so.
Q. Do you know how many?
A. No, sir.
Q. Or the amount involved?
A. No, sir.
Q. Can you tell me whether these are domestic or imported ribbons [showing witness ribbons]?
A. From the fact of their being in this suit——
Q. These ribbons are not in this suit?
A. No, sir; I can not tell whether the one you hold in your hand is imported or domestic.
Q. Can you tell by closer inspection?

A. No, sir.
Q. How long have you been in the business?
A. About eighteen years.
Q. How long have they been manufacturing ribbon in this country?
A. During that time.
Q. Since that time?
A. It may have been longer. As far as my recollection extended.
343 Q. Could you pick out any ribbon in this lot that is like the ribbon that I hold in my hand.
A. They are all similar in quality and appearance.
Q. And that you say after a careful examination of those samples and a careful examination of these beautiful bonnets?
A. Yes, sir.
Q. What kind of ribbon is that? I mean independent of its title; what do you call it as a ribbon [referring to hat No. 1318]?
A. As a ribbon, that is a combination of gros-grain and satin.
Q. This is a fancy ribbon [referring to another ribbon]?
A. Yes, sir.
Q. That is not called fancy ribbon [referring to another ribbon]?
A. Yes, sir.
Q. This likewise [referring to another ribbon]?
A. Yes, sir.
Q. What do you call this ribbon [referring to ribbon attached to bonnet]?
A. Those are fancy ribbons. They are changeable ribbons [referring to other ribbons]. This is grosgrain; this is not a fancy ribbon.

By the DISTRICT ATTORNEY:

Q. No. 6669 is grosgrain?
A. Yes, sir; that is called grosgrain, with satin edge.
344 Q. What is 5211 called?
A. That is a changeable.

By the DISTRICT ATTORNEY:

Q. It is still called a fancy ribbon?
A. Yes, sir.
Q. Ribbon No. 131, what do you call that?
A. That is a changeable ribbon.
Q. Ribbon No. 233, what do you call that?
A. That is a fancy moire ribbon.
Q. Known as such?
A. Yes, sir.
Q. Ribbon No. 308, what is that called?
A. That is a moire.
Q. So known to the trade?
A. Yes, sir.
Q. Ribbon No. 159, what is that called?
A. That is a velvet ribbon.
Q. So known to the trade?
A. Yes, sir.
Q. Designated as such?
A. Yes, sir; as velvet ribbon, or whatever you like.
Q. It is not what I like; it is known as velvet ribbon?

A. Yes, sir.
Q. Ribbon No. 133, what do you call that?
A. That is called a check ribbon.
Q. Ribbon No. 243, what do you call that?
A. That is a failletile.
345 Q. Ribbon 231, what do you call that?
A. That is a changeable ribbon.
Q. Ribbon No. 216, what do you call that?
A. The same; changeable.
Q. Ribbon No. 306, what do you call that?
A. Moire grosgrain.
Q. 233 is changeable ribbon?
A. Yes, sir.
Q. What do you call this pattern, 53?
A. That is called loop-edge.
Q. Pattern 110; that is called fancy ribbon, is it not?
A. Yes, sir.
Q. No. 131; what is that called?
A. That is called a fancy ribbon.
Q. What is 137 called?
A. The same.
Q. What is 133 called?
A. That is a check ribbon.
Q. No. 164 is a fancy ribbon?
A. Yes, sir.
Q. What is No. 313 called?
A. That is a fancy ribbon.
Q. What is 233 called?
A. The same.
Q. Is No. 277 called fancy?
A. Yes, sir.
Q. Is No. 231 called fancy?
A. That is a fancy blasé ribbon.
Q. [Exhibit Z shown witness.] What are those?
(Objected to.)
346 The DISTRICT ATTORNEY. I want to test the witness's knowledge on the subject of ribbons.

Mr. TREMAIN. I do not think it can be tested by samples not identified and approved by anybody.

The DISTRICT ATTORNEY. I propose to introduce them into the case. I would not ask the witness unless I did.

The COURT. The question is allowed.

Mr. TREMAINE. If he follows that up, as he says he will, I think it ought to be allowed.

The DISTRICT ATTORNEY. I propose to do it.

(Objection withdrawn.)

By the DISTRICT ATTORNEY:

Q. What do you say those ribbons are?
(Objected to. Question withdrawn.)
Q. I understand you to say you are in the dry-goods business?

A. I am connected with an importing house engaged in the importation of dry goods.

Q. That is your principal business, is it not?

A. Yes, sir.

Q. I suppose you keep a regular ribbon counter?

A. The supposition is incorrect.

Q. Where do you keep your ribbons displayed?

347 A. This is a wholesale stock. We are importers. We make no such display.

Q. You make no display at all?

A. No, sir.

Q. The goods I suppose are sold on the reputation of the house?

A. No, sir.

Redirect examination by Mr. TREMAIN:

Q. They are sold on the reputation of the goods?

A. Sold on the judgment of the buyer.

Q. Do you deal in domestic ribbons?

A. Yes, sir.

Q. You know them when you see them?

A. Yes, sir.

Q. Have you any familiarity with the class of goods exhibited a moment ago by my friend?

A. In a general way; I have seen such goods; yes, sir.

Q. I understood you to say, in answer to the district attorney, in respect to each of these various samples they each had a specific name. Is it not a fact that each ribbon is commercially distinguished from other ribbon by some term of special description?

A. Yes, sir.

Q. And those terms of special description describe the quality and width and other attributes of the ribbon, do they not?

A. Yes, sir; and the style.

348 Q. Are there particular attributes and styles that are commercially adapted to millinery purposes that distinguish them from other purposes?

A. Yes, sir.

Q. Do all of the ribbons shown you thus far belong to the same general class?

A. Yes, sir.

349 JOSEPH B. BAKER, sworn and examined.

By Mr. TREMAIN:

Q. You are the appraiser of the port of Philadelphia?

A. Yes, sir.

Q. You have been the appraiser of the port for how long?

A. Since August, 1885.

Q. You have heard the testimony of Mr. Keegan in respect to his official action on certain invoices?

A. I have.

Q. Can you tell whether these invoices bear the memorandum of your official action by looking at them?

A. I can.

Q. Look at the six invoices that contain cases 1267, 1279, 1159, 1182, 1193, and 1290, which I now show you, and state whether they bear the imprint of your official action?

The DISTRICT ATTORNEY. I object to the introduction of any testimony through Col. Baker as to any action of his on these invoices after the suits were commenced.

Mr. TREMAIN. I have not called for that yet.

The DISTRICT ATTOREY. I assume Mr. Keegan acted under
350 somebody's orders. There is no doubt about that and I do not question it.

A. In all but one.

By Mr. TREMAIN:

Q. That one is the one by the "Indiana," of October 17, 1887, is it not?

A. Yes, sir.

Q. And that one contained the musical trumpeter?

A. I do not know. It speaks for itself.

Q. In or about the month of April or May, 1888, did you receive instructions from the Secretary of the Treasury in respect to the classification of trimmings, chiefly used for making hats, bonnets, and hoods?

(Objected to.)

Mr. TREMAIN. I propose to show that the Treasury Department has adopted and ordered a classification that is in accord with the claim now made by plaintiffs in this suit, and that it was in consequence of a decision of the Supreme Court; and we propose to show that those orders were by Col. Baker, as explaining the testimony of Mr. Keegan when he said he acted upon those invoices.

The DISTRICT ATTORNEY. I object to that, because I do not think it is material to this suit.

The COURT. Not material to show what the Treasury Department has decided?

351 The DISTRICT ATTORNEY. I think your honor has a right to presume I am pressing this case under instructions of the Government.

The COURT. The order ought to be here, if it is in writing.

Mr. TREMAIN. That is all I propose to prove.

The COURT. Then it is perfectly proper. We have had cases in which the Treasury Department has decided in several different ways.

The DISTRICT ATTORNEY. It is hardly a precedent.

The COURT. It is a precedent to take a man's money and not give it back to him.

The DISTRICT ATTORNEY. I do not think that is this case.

The COURT. It may not be, but it is proper to show the action of the Treasury Department.

(Objection overruled.)

(Question read to the witness.)

A. I did.

By Mr. TREMAIN:

Q. Do you know the date?

A. I do not recollect.

Q. I now refresh your recollection by the official record [handing paper to witness]. Was it April 25th?

352 A. Yes, sir; April 25th, 1888.

Q. Was it in consequence of that instruction that Mr. Keegan had these invoices before his official cognizance, under your direction?

A. Yes, sir.

(Mr. Tremain read to the court and jury instruction 3803, of the Treasury Department, dated April 25th, 1888.)

Q. Reference is made in this paper that I just read to a Department decision of April 30th, 1885, synopsis 6900. Are you able to say whether the original classification of these goods at fifty cents upon entry was in consequence of that decision of April 30th, 1885, No. 6900, under the words there referred to?

A. Yes, sir; the decision of the Supreme Court in the Langfeldt case was in May, 1888.

Q. That was prior to the decision?

A. No; 1888, subsequently.

Q. The original classification was prior to the decision of the Supreme Court in the Langfeldt case?

A. Yes, sir.

Q. And the action that Mr. Keegan took under your direction subsequently was after that decision which is referred to here. That is the fact, is it not?

353 A. Yes, sir.

The COURT. As I understand, then, the goods which are the subject of importation in this case, after this decision of the Supreme Court, were referred again to the appraiser and he changed the classification?

Mr. TREMAIN. Yes, sir; in pursuance of the Secretary's order. Mr. Baker has not testified to that. Mr. Keegan testified to what he did in consequence of Col. Baker's instructions.

Cross-examination by the DISTRICT ATTORNEY:

Q. One of the instructions in this communication, as I read it, is that the appraisers were required to ascertain "that the goods are commercially known as braids, plaits, flats, laces and trimmings, and were so commercially known and designated at the time of the passage of the act of 1883," is it not?

A. Yes, sir.

Q. That was one of the instructions issued to the appraisers?

A. Yes, sir.

Q. And secondly, "That they are chiefly used in making or ornamenting hats, bonnets, and hoods?"

A. Yes, sir.

354 Q. There was nothing done under this instruction other than what you have testified to?

(Objected to as leading.)

The COURT. The memoranda on the invoice will show what the classification value was and how they were designated.

By the DISTRICT ATTORNEY:

Q. The Government refused to refund the duties, did it not?

A. I do not know.

The COURT. The Government might do a very unjust thing.

The DISTRICT ATTORNEY. I think that is to be determined in this trial. That is the issue I am trying. I think I can satisfy this court and jury they are doing a proper thing.

The COURT. If it was changed under the instructions of the Secretary of the Treasury, and they were classified afterwards under the 20 per cent. clause, they certainly would do a very unjust thing in charging 50 per cent.

By the DISTRICT ATTORNEY:

Q. As long as Mr. Keegan acted under your instructions, why did he not ascertain and state in his memorandum whether these goods mentioned in these invoices were commercially known as braids, plaits, flats,
355 laces, trimmings, etc., at the time of the passage of the act of 1883?

A. We supposed that was sufficient.

Q. Supposed it was sufficient?

A. Yes, sir; I supposed it was sufficient. The invoices which were returned are for reconsideration. We went over them very thoroughly in connection with the decision and the decision of Justice Matthew, which I hold before me, and by that clause I instructed them to pass all the goods or all the ribbons that were used chiefly for hat trimmings at 20 per cent.

Q. Those were your instructions?

A. Those were my instructions.

Q. Then you did not instruct him to ascertain, nor did you ascertain yourself, whether those articles were commercially known and designated as braids, plaits, flats, laces, trimmings, etc., at the time of the passage of the act of 1883?

A. I ascertained in the summer of 1886 thoroughly by going to perhaps a dozen importers in the city of Philadelphia to ascertain what were bonnet and hat trimmings. I visited not only the dealers in millinery goods but the principal houses that made ladies' dresses, and I ascer-
356 tained that they all agreed that there were at least 70 per cent.—I think 70 per cent.—up to 90 per cent. used for hat trimmings.

Q. Of ribbons?

A. Yes, sir; and therefore I continued to classify them at 20 per cent. There was a great objection. New York and other places were passing them at 50 per cent. I was satisfied in my own mind from a knowledge and thorough investigation that they should be classified at 20 per cent. We continued to classify at 20 per cent. until the conference was held in New York, in December, 1886. The conference was called specially with regard to the classification of hat and bonnet trimmings, and after a thorough investigation Philadelphia was in the minority, and from that time on we classified them at 50 per cent., until we received the instructions from the Department which have just been read. We then thoroughly examined all these in connection with the Supreme Court decision, which I have, and I felt satisfied that the proper duty on these ribbons was 20 per cent., and so we reconsidered it. Since the Secretary of the Department has withdrawn that, we have been classifying them at 50 per cent. under instructions.

357 By Mr. TREMAIN:

Q. Again?

A. Yes, sir.

By the DISTRICT ATTORNEY:

Q. You are now classifying them at 50 per cent., under the instructions of the Department?

A. Under the instructions of the Department?

By the COURT:

Q. They revoked the instruction which they issued before?

A. Yes, sir; and we obey the Department. No matter what our own individual opinion is, we obey the Department.

By the DISTRICT ATTORNEY:

Q. As I understand you, there was a difference of opinion among the United States appraisers as to the commercial designation of these articles?

Mr. TREMAIN. I object to that. I asked him about the official action; what the Department did.

The COURT. He said there was a difference of opinion among the appraisers as to the classification of those goods. I will say without hesitation, Col. Baker was right.

By the DISTRICT ATTORNEY:

Q. What was the difference of opinion?

358 Mr. TREMAIN. We object to that, on this ground: that we want them to put Col. Baker on the stand as their witness.

By the DISTRICT ATTORNEY:

Q. What do you mean by saying there is a difference of opinion?

(Objected to.)

The COURT. It is a matter of no consequence.

The DISTRICT ATTORNEY. The witness said in his statement, which was not at all responsive to my question, that there was a difference of opinion among appraisers.

The COURT. Yes; and Philadelphia was in the minority.

The DISTRICT ATTORNEY. I want to know what he means by that.

The COURT. Let the colonel explain that, if there is any difficulty of understanding. I do not suppose the jury has any trouble about it. The court has not, certainly.

By the DISTRICT ATTORNEY:

Q. What do you mean by that?

(Objected to.)

The COURT. Let him answer what he means by "difference of opinion between him and the other appraisers," but not as to the ground of it.

359 A. The facts of the case are that—

By the DISTRICT ATTORNEY:

Q. The facts of what case?

A. They were classifying them in the great port of the country at 50 per cent. under a different clause than that of the hat trimmings. As I said, we went thoroughly into this because we desired to agree, but when I went through this city and spent two or three days investigating it, and found that they were of unanimous opinion among all, that 90 per cent. of the ribbons were used for the trimming of hats, bonnets, and hoods.

Q. It was your opinion, as I understand, that they should be classified to pay the rate of duty of 20 per cent.?

A. Yes, sir; not only that, under special provision for trimming hats, bonnets, hoods, and so on.

Q. Some of the other appraisers thought it ought to be 50 per cent.——(What the other appraisers thought objected to.)

The COURT. The question is what Col. Baker did as an officer of the Government. In other words, what the Government did through him.

The DISTRICT ATTORNEY. There was no official reclassification of these goods, was there?

360 Mr. TREMAINE. I object to his characterizing what was done. We have had the evidence of what was done.

The DISTRICT ATTORNEY. I shall claim that the mere memorandum, made by Mr. Keegan, tagged on to these invoices is no classification of the goods.

The COURT. Let Col. Baker explain that, whether that is an expression of judgment by the officer—a classification by the officer.

(Question read to the witness.

Mr. Tremain objected to the witness characterizing the action that was taken.)

Mr. TREMAIN. We have no objection to his stating what was done.

The COURT. You can ask him whether the writing on the paper is not a reclassification.

Mr. TREMAIN. We have no objection to that.

The following question read to the jury:

"There was no reclassification of these goods, was there?"

A. When the invoices are sent to me and acted upon as I instruct the examiner, I should suppose it was an official operation. I should suppose so. I do not know what became of them afterwards.

361 By the DISTRICT ATTORNEY:

Q. The collector did not agree with you, did he?

A. I have no knowledge of that.

Q. There has been no reliquidation of the duties, has there?

A. I do not know; I know nothing about it. That is not my province of business.

The COURT. The question is, whether the goods were sent back to the appraiser and whether he made a reclassification of them?

The WITNESS. I did.

Q. I understand that to be the import of these indorsements?

A. I received a letter of instruction from the Secretary of the Treasury and a copy of his letter and I adhered strictly to the letter of it, in connection with Judge Matthew's decision.

By the DISTRICT ATTORNEY:

Q. As I understand you, you adhered to the instructions as you understood them?

A. As I understood them.

The COURT. The question is one of fact; what did he do? He took the goods and examined them, as he has said already; he went around to

inform himself as to the character of these goods, and then certain
362 memoranda were made upon the invoices.

The WITNESS. Perhaps, in justice to me, one clause of Justice Matthew's decision should be read, because I examined it particularly.

By Mr. TREMAIN:

Q. Did you make an official report to the collector of what you did, or what you caused Mr. Keegan to do in respect to these invoices?

A. I think there was some correspondence, but not generally any, because the reconsideration and the name attached. My signature approving of them was sufficient.

Q. You did that?

A. I did that in all cases.

Q. And sent such a paper to the collector?

A. That is, on the invoice.

Q. I mean at the time of the reconsideration?

A. I think there was, perhaps, some inquiries, to the best of my knowledge and recollection.

Q. Do you recollect, in consequence of, and subsequent to, this reconsideration represented by Mr. Keegan in the memorandum, you had that fact officially reported to the collector?

A. Yes, sir.

Q. That was done?

A. Yes, sir; that was done by the invoices.

363 JOSEPH R. DICKMAN, sworn and examined.

By Mr. TREMAIN:

What is your business?

A. Importers of foreign goods, and also selling agents of domestic ribbons.

Q. Are you familiar with the staple commodities in commerce, which are termed goods, used for making or ornamenting hats, bonnets, or hoods?

A. I am.

Q. How long have you been familiar with these staple commodities of commerce?

A. Twenty-five years.

Q. Has you experience been as a large dealer at wholesale, or how?

A. Yes, sir; wholesale.

Q. What are those staple commodities?

A. Ribbons, velvets, and plushes. Then there are articles that we do not keep; feathers, for instance.

Q. Flowers?

A. Flowers.

Q. Artificial feathers and flowers?

A. Yes, sir; but those we do not keep.

Q. And other things?

A. Yes, sir.

Q. What are ribbons?

A. They are millinery trimmings.

364 Q. Can you tell when you see a ribbon whether it is adapted

chiefly to trim hats, and bonnets, or hoods, or whether it is chiefly adapted to some other use, commercially speaking?

A. I think I can.

Q. There are ribbons, are there not, that are commercially adapted for some other chief use except for trimming hats and bonnets?

A. I think all ribbons are suitable for those purposes.

By the DISTRICT ATTORNEY:

Q. You think all ribbons are suitable for millinery purposes?

A. I think they can be used for millinery purposes.

By Mr. TREMAIN:

Q. Some are specially for that purpose?

A. Yes, sir.

Q. Please look at the samples represented by Mr. Wanamaker's patterns in evidence, and please state whether those ribbons are chiefly used for ornamenting hats, bonnets, and hoods, or not?

A. I should think that such was their chief use.

Q. Can you say whether the class of ribbons represented by these samples are on these trimmed bonnets here?

A. (After looking at trimmed bonnets and hats.) They are similar to the ribbons that are on these hats. They are not exactly the same, but they are of that character.

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Q. Do they belong to that commercial class or not?

A. They do.

Q. Is that a well-defined commercial class of ribbons?

A. Yes, sir; there is one here that I would except; it is No. 313.

Q. That is particular ribbon?

A. Yes, sir.

Q. Do you see much of that in the market?

A. No; we never had any of that kind.

Q. Did you ever see that exact pattern in the market before?

A. That exact pattern? No, sir; I never saw it.

Q. That is a special article, is it not?

A. Yes, sir; it could be used for trimming a hat.

Q. You do not know whether it is or not?

A. I could not say, but all the others, I think, are made for bonnet ribbons—trimming of bonnets and hats.

Q. If ribbons of that class are diverted from that chief use, what do you say about their substantial commercial value at wholesale?

A. It does not alter their character; they depreciate in value; the styles are not probably wanted. For instance, there is a ribbon, if you should offer that at this season of the year, for winter purposes, it would not bring much (referring to light-colored ribbons).

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Cross-examination by the DISTRICT ATTORNEY:

Q. What is your house?

A. Meyer & Dickinson.

Q. You have a number of suits against the Government involving a similar contention to this?

A. We have. Some of them are settled.

Q. You have still some pending, have you not?

A. Yes, sir.

Q. Do you import largely?

A. Yes, sir.

Q. For what purposes, mainly, do you sell?

A. Ribbons are one of our principal articles. We sell those to millinery houses.

Q. You make a specialty of selling them to millinery houses?

A. We sell to dry-goods houses also, but we sell the great bulk of our ribbons to millinery houses.

Q. That is your specialty?

A. The trimming houses, as a class, do not keep ribbons sufficient in quantity to warrant us to sell. I think there is one trimming house that keeps ribbons in Philadelphia.

367 Q. I understand you to say that there is a well-defined class of ribbons that are known commercially as millinery ribbons. I want you to explain to the court and jury what the lines of demarkation are that mark that class.

A. As bonnet ribbons I call all this class of ribbons (referring to Wanamaker's ribbons).

Q. I do not ask you as to any particular class of ribbons, because you frankly admitted all ribbons may be used for bonnets. What peculiarities are there that mark the different classes of ribbons?

A. I should say all ribbons are used for millinery purposes and known as millinery ribbons.

Q. Then you were in error when you said there was a particular class used for millinery purposes?

A. I say they can all be used for millinery purposes as well as anything else. I call these particularly bonnet ribbons. There are some here that might be used for other some other purpose, but in the main they are bonnet ribbons, and used for that purpose, and can not be used for any other purpose with good judgment.

Q. What peculiarities are there about these ribbons that make them peculiarly adapted to the trimming of bonnets?

368 A. Their combination of colors and styles. Here is a ribbon (No. 277) which I think could be used for dress trimming—that combination. It could be used. Or this or that (indicating).

Q. Do you mean to say that could be used in trimming jewelry boxes (referring to sample)?

A. It does not amount to anything—that business. We never sell that trade at all; they would not use that (indicating pink ribbon) on a jewelry box.

Q. If you never sold to the trade, why do you know that?

A. They do not buy in sufficient quantities.

Q. Do you know anything about it?

A. They do use some ribbons on jewelry boxes, but they do not buy sufficient quantities. What they buy is very little, and then they are all plain ribbons—plain character—not fancy. They would not put that (indicating) on a silver box or a jewelry box. They take a plain ribbon.

Q. You say those ribbons that you have in your hand are of the same class and quality as the ribbons on this table (referring to ribbons on hats). Kindly indicate one of those ribbons that looks in color and width like these ribbons.

369 A. In general they look like these. Of course there are different styles. Here are some plush effects where the chain is one color and the filling another. Here are some velvet effects. You have some velvet effects there.

Q. I understood you to say their point in general is, they are all ribbons?

A. They are all ribbons. These are bonnet ribbons.

Q. What are they commercially known as?

A. They are called ribbons. That is in order to distinguish them from other millinery trimmings. If a man came into our store and wanted a trimming, he would say, "Let me see your fancy bonnet-ribbons." We would show him fancy bonnet-ribbons. Sometimes he wants a narrow ribbon to put in the binding of a hat. You had some ribbon here yesterday. Those are plain ribbons. You call them in Germany "hat bands," which means the same as ribbon. The band and ribbon one thing.

Q. Would you not buy them and sell them as ribbon under that commercial designation?

A. No, sir; when we enter them we do not call them anything. We call them by patterns—so many cartoon patterns, so and so. That is the way we receive them and sell them.

370 Q. You sell them under the trade designation as ribbons and fancy ribbons, do you not?

A. Fancy bonnet-ribbons. If a person came into the store and wanted to see fancy bonnet-ribbons, we would show him those. He may want a narrow ribbon for inside, or plain ribbon. There are various kinds. Those (referring to samples) I call bonnet ribbons. I suppose fully eighty per cent. of our importations go to millinery houses.

By Mr. TREMAIN:

Q. Are these samples, Exhibits A and B, the class you meant when you referred to the class that was here yesterday?

A. Yes, sir; we would call them in Germany "bands"—"bande." That means ribbon. The German word for ribbon is "band" or "bande." They are hat ribbons.

Q. A band is a ribbon?

A. A ribbon is a band in Germany and a ribbon here; they are all ribbons; they are ribbons.

Q. Have you seen ribbons on men's hats?

A. Yes, sir; there is a class of children's hats. They use them on men's hats.

Q. These samples illustrate the way they are used on children's hats?

371 A. Yes, sir; children's hats. There is one a German ribbon—a band.

Q. There are a thousand different styles of ribbons, are there not?

A. I should think so.

Q. You deal in ribbons by the hundred thousand boxes, do you not?

A. Yes, sir; that is more than a year. We deal very largely.

Q. Thousands of boxes?

A. Yes, sir; every year.

Q. How many ribbons are there in a box?

A. It is owing to the width. Where they are narrow there are more, and where there are wide there are not so many.

Q. You are one of the largest dealers in Philadelphia at wholesale in ribbons?

A. Yes, sir; and we are also in New York.

By the DISTRICT ATTORNEY:

Q. Through what port do you import your ribbons?

A. Philadelphia.

Q. Altogether?

A. Yes, sir.

Q. Do you import any through New York?

A. No; Philadelphia.

Q. You always import them through Philadelphia?

A. The main house is here.

Q. Do you manufacture ribbons at all?

372 A. We are interested. We are selling agents for a domestic manufacture. I say it nearly all goes for millinery purposes.

Q. That is your specialty?

A. No, sir; it is like any other man who deals in ribbons.

Mr. TREMAIN. We desire to state the amount of the plaintiff's claim, which, after a calculation that has been submitted to the other side, results as follows:

The plaintiff's claim on the goods claimed to be dutiable as trimmings, used for making or ornamenting hats, principal and interest	$148.19
The plaintiff's claim on the automatic trumpeter	10.73
Total	158.92

Mr. TREMAINE. Before closing I desire to call the attention of the court to the circumstance that the tariff itself uses the phrase "millinery articles" by excluding certain millinery articles from the hat material section and making artificial feathers and flowers dutiable at 50 per cent. It reads—

373 "Feathers of all kinds when dressed, colored or manufactured, including dressed and finished birds or millinery ornaments and artificial and ornamental feathers and flowers, or parts thereof, of whatever material composed, for millinery use." That millinery use is a specific description of ornamental and artificial feathers and flowers as to take them out of the general provision under which we claim and the words "millinery use" are thus given a meaning of significance with the testimony in this case.

(Plaintiff rests.)

374 *Testimony on behalf of defendant.*

JOHN CADWALADER, sworn and examined.

By the DISTRICT ATTORNEY:

Q. You are collector of the port of Philadelphia?

A. Yes, sir.

Q. Please look at this invoice and say whether there has been any official act done other than the first classification and liquidation of duties.

Mr. TREMAIN. I object to that, unless it is limited to an inquiry concerning the official act of this particular witness.

The DISTRICT ATTORNEY. I only offer this testimony so that there shall not be any misunderstanding between us. I am not able to say what Mr. Tremaine intends to claim as the effect of the examination of Mr. Baker; whether there is any act done by the Government that precludes them from making a defense in this case or not.

The COURT. Certainly not. They could not do it. There could be no estoppel. We have *have* had cases time and time again in which
375 different decisions by the Secretary of the Treasury have been called to the attention of the court.

Mr. TREMAINE. I had no opportunity of stating the purpose of that proof. I suppose the court understands we did show the official action under 8803 so far as the particular witness on the stand did act. I only say if the other side is going to show any official action or any absence of any official action, we shall do the same thing.

The COURT. You have shown by the action of the Government these goods were classified under the 50 per cent. clause, and that amounts to an exaction which you think to be excessive.

Mr. TREMAIN. I have no objection to him asking whether this witness did any official action.

The COURT. Colonel Baker did state distinctly the memorandum on this paper did indicate official action by him. I do not suppose Mr. Cadwalader would state anything different. If he did it would be an issue between he and Colonel Baker as to what they meant.

By the DISTRICT ATTORNEY:

Q. State whether there has been any re-classification on the goods mentioned on these invoices.

Mr. TREMAIN. By him?

376 The DISTRICT ATTORNEY (continuing the question). By anybody connected with the department or who has the right to make it.

Mr. TREMAIN. I have no objection to that question if it is limited to what this witness did.

The DISTRICT ATTORNEY. In his department.

Mr. TREMAIN. If this witness directed anything to be done I am perfectly willing he should prove it.

The COURT. And that will have to stand alongside of what Colonel Baker said.

Mr. TREMAIN. I do not propose to let any Government officer testify to what other Government officers did.

The DISTRICT ATTORNEY. I want to ask this witness whether there has been any classification in his judgment or by an officer in his department?

Mr. TREMAIN. We ask that question be limited by or under the witness' direction. He is the defendant.

The COURT. Nominally.

Mr. TREMAIN. It may be more serious than that. He may be an actual defendant.

The COURT. Or an officer properly chargeable with that duty.

377 Mr. TREMAIN. Does the court think that is a proper inquiry?

The COURT. Yes.

Mr. TREMAIN. I make no objection to it, then.

A. One of these invoices contains the words "re-classified" by the appraiser. The appraiser has no power to classify——

(Objected to.)

The WITNESS. There has been no re-classification by any officer authorized to make it.

By the COURT:

Q. Colonel Baker testified that he acted in pursuance of an order from the Treasury Department, and that he did reclassify these goods.

A. There can be no order from the Treasury Department to the appraiser to re-classify; it is impossible.

Q. That is not the question.

A. I only state the answer. I have not re-classified, or any officer that is under my direction.

The COURT. Mr. Baker and Mr. Keegan both stated that they classified and re-classified those goods, and did re-classify them and put them on the 20 per cent. clause, and that Mr. Baker did it under the order of the Treasury Department. The question is not whether that was properly

378 authorized or not.

The DISTRICT ATTORNEY. The communication that Mr. Tremaine read, and that Mr. Baker referred to, is a communication directed to the collector of customs.

The COURT. That may be so; we are not to inquire into the authority of the appraiser here. It is a question of fact whether there was a reclassification or not. Then, if there was no law for that, that is not to be proved by the collector.

By the DISTRICT ATTORNEY:

Q. As I understand you, there was no reclassification of these goods?

A. Not under liquidation. So far as I see there is nothing to show me that there was any action of that sort.

The COURT. That is Mr. Cadwalader's judgment. It is hardly fair to put him and Col. Baker in that relation to each other. Col. Baker testifies he did it, and so did Mr. Keegan. It is not as to whether he performed his duty properly or not, but what is the fact; did he do it?

The WITNESS. The appraiser of the port can not get the appraiser to reclassify without my sending it to him—my authorizing it.

379 By the DISTRICT ATTORNEY:

Q. Is there any paper signed by Mr. Baker among those invoices?

A. One one of those invoices I observe the words "reclassified and reconsidered," signed by Mr. Baker.

Q. That is the only one?

A. That is the only one I can observe or see. If there was anything else I can not find it. Upon that reclassification I presume there was a liquidation. I take it for granted there was.

Q. Did you approve of the reclassification of the invoices referred to by you?

A. To the extent, I presume, in which it is stated here, I did. It is only one particular item. Not the protest.

Q. What item was that?

A. That was some braid. In case 1266 "reconsidered and reclassified" is noted, Robert J. Keegan. That, I presume, was approved and liquidated upon.

Q. That is the only one in which there appears a reclassification?

A. That is the only one in which there appears a reclassification. It is on the invoice; that is all.

Mr. TREMAIN. It is not one of our claims.

The DISTRICT ATTORNEY. It is not one of the contentions here at all.

380 Q. That is the only reclassification that appears to have been made on any of the articles covered by these invoices?

A. Yes, sir.

Cross-examination by Mr. TREMAIN:

Q. The calculations are usually made upon the entries respecting the amount, the dollars and cents, to be paid or refunded, are they not?

A. Yes, sir.

Q. That is done under your direction, is it not?

A. Done in the custom-house and not in the appraiser's office.

Q. Under your direction?

A. Yes, sir.

Q. Do you know whether the calculation was made on these entries in accordance with a recommendation from the appraiser of a reclassification from 50 to 20 per cent.?

A. I could not state that. I did not examine the matter.

Q. In the usual course of business that is what would be done if they were in suit and under protest?

A. If the appraiser had asked for a reconsideration, and had made a new report to the collector, his suggestion would be considered at the custom-house.

381 Q. And in the usual course of business there would be an endorsement to that effect upon the entries showing the new calculations?

A. Not as to classification. Reconsideration as to values, and occasionally as to values of goods, but in classification I never saw it before.

Q. In the case of reclassification, under a different rate of duty, there would be a memorandum on the entry at the custom-house showing a calculation, would there not?

A.

Q. Is Mr. Evans under your employ?

A. No, sir.

Q. Mr. Edmunds?

A. He is liquidating clerk.

Q. I show you one of the entries in this case, and ask you if you recognize his initials on that entry?

A. I am not very familiar with them. That is Henry R. Edmunds; I suppose so.

Q. Do you recognize the naval office check?

A. By Mr. REED; yes, sir.

Q. Supposing you read that memorandum.

(There being delay in finding the memorandum referred to, the answer was deferred until after recess.)

At one o'clock the court took a recess until two o'clock.

382 AFTERNOON SESSION—2 P M.

Continuation of cross-examination of JOHN CADWALADER.

By Mr. TREMAIN:

Q. The entry that I had shown you at recess related to one of the invoices which you had just before you, did it not?

A. I did not verify it. I have no doubt it did.

(Mr. Tremain read the memorandum as follows:)

"50 per cent. to 20 per cent., $28.00; at 30 per cent, $8.40. H. R. E., S. C. R."

Q. "S. C. R." is the naval-office check, is it not?

A. That is not the check; that is the memorandum.

Q. That is a memorandum of the initials "S. C. R."?

A. There is a gentleman named Reed in the office, and I suppose those are his initials. I presume they are. I know there is a man with those initials. I do not know whether it is his handwriting or not. I have no doubt it is. It is not a memorandum on the invoice. There is a memorandum on the back of the entry. The entry is on the face of it.

383 Q. In the usual course of business a large number of memoranda are generally made upon entries showing the action of various clerks upon them, are there not? Is that so or not? Answer yes or no.

A. I will answer, if proper; there are memoranda of a proper kind on the back, but the principal action is taken on the face. There may be memoranda on the back.

Q. I want to know whether in the usual course of business there are memoranda made by clerks on the entries?

A. Certainly there are memoranda made by the clerks on entries.

Q. I ask you whether, in the face of that entry, there are not a variety of memoranda made by clerks in the usual course of business?

A. Yes, sir. That is not the entry I had.

Q. This is another entry by the "British Prince?"

A. There are a number of memoranda made on the face of the entry.

Q. On the back of the entry, are there not several memoranda made by clerks?

A. Yes, sir; on that portion of the back, there are.

Q. In the usual course of business?

A. Yes, sir; on that portion of the back where it is filed.

384 Q. The oath is on the back?

A. The oath is printed on the back.

Q. I show you an entry purporting to relate to the importation by the Indiana of September 5th, 1887, containing case 1267 upon the invoice, and ask you whether that entry contains memoranda made in the course of business, on the back?

A. There is placed upon the back——

Q. Can you not answer yes or no to that question? Is it possible for you to answer yes or no?

A. Not on questions of that kind.

Mr. TREMAIN. Then I will not press it; I will prove it by somebody else.

Q. Is that the entry that relates to the invoice by the Indiana?

A. I presume so; if you will explain what you mean by memorandum, I may be able to answer your question.

Q. It is from the custom-house, is it not?

A. I presume so.

Q. Be sure of that [handing paper to witness]. You say you presume so?

A. This is a custom-house paper.

Q. It is the entry relating to the invoice by the Indiana?

A. It is an invoice by the Indiana.

Q. Look at the back.

385 A. Tell me what you refer to, and I will answer your question.

Q. Look at the back and please answer, yes or no, whether you are able to say if that entry contains memoranda of a calculation made by anybody as to the difference in duty between the rate of 50 per cent. and the rate of 20 per cent.

A. Not upon the back of it by anybody in my office.

Q. Does it contain any memorandum by anybody, showing such a calculation?

A. There are some figures there on one side which have nothing to do with the entry. Some clerk has written there for his own convenience—not a part of the official entry. The entry is on the face.

Q. There is a memorandum on the back, made by whom?

A. These are the same initials. I presume it is Mr. Reed, of the naval office.

Q. You do not know when those were made, do you?

A. No. That did not have any binding effect upon me.

Q. Do you know when they were made?

A. I do not know anything about it.

Q. Are you able to answer whether that memorandum was made with a view to send a statement to Washington of the difference

386 between 50 and 20 per cent. for the purpose of refunding an excess of duty of $54 on that entry?

A. The naval office is not under any person in my control, at all. It is for the purpose of verifying the work done at my office. I know nothing about it.

Q. Are you able to answer that question?

A. No; I can not answer it. As I say, it is in the naval office.

Q. Are you able to answer the question?

A. No, sir; I could not answer that on my own knowledge.

Q. You can not answer that on your own knowledge?

A. Not on my own knowledge.

Q. Did you give any directions whatever at any time during the year of 1888 in respect to the duty paid upon this entry?

A. I did, as to all these entries, nearly. I have no doubt that is one of them.

Q. Did you, during the summer of 1888, give any directions in respect to the duties paid in this entry?

A. Not especially as to the duties paid, but in reference to this entry there are certain actions taken.

Q. You took certain actions?

A. Yes, sir.

Q. In consequence of the action taken by you there was no refund on this re-entry?

A. There was no reliquidation or reconsideration in consequence
387 of my action. There was no reconsideration or reliquidation on that entry.

Q. There was no refund?

A. There may have been a refund in the original entry.

Q. I am asking you about the one of 1888. In consequence of the action taken by you, was there any refund on that entry of $54 in 1888?

A. As far as I can say, certainly not. If it was done, there is no evidence here and it would be entirely irregular.

Mr. TREMAIN. I offer that memorandum in evidence; if you have any objection to my reading it I will not read it now.

(Objected to.)

Q. Is Mr. Edmunds a clerk in your office?

A. Yes, sir.

Q. Is the memorandum on the back of the entry of the British Prince made by him?

A. I do not know anything about it. That would be such an entry. I do not know anything about those figures. They are the initials the same as his name. He would very likely put that entry.

Q. You do not know whether that is his memorandum or not?

A. No; I have no doubt it is, but it would have nothing to do with the invoice.

388 (Memorandum offered in evidence by Mr. Tremain. The memorandum is as follows: "50 per cent. to 20 per cent.; $28.00 at 30 per cent. equals $8.40.")

Mr. TREMAIN. That is the entry by the British Prince. That related to case 1193 on our schedule.

Q. Did you receive a written report of the appraiser of the port, Col. Baker, respecting these invoices which have been shown you this morning?

A. I could not tell positively unless I saw them.

Q. Did you receive any written communication from Col. Baker respecting any of these entries during the summer of 1888?

A. I presume not. That is in reliquidated entries——

Q. We will get along faster if you will please answer.

A. Of course; the multitude——

Q. If you do not know, say so.

A. I can only assume, of course. I can not specify. If you had asked me to refresh my memory before I came here I would have examined the papers; but I presume not.

Q. Can you refresh your memory or can you answer now whether,

during the summer of 1888, you received any written communication from the appraiser of the port respecting these particular invoices?

389 A. I presume Mr. Collins, who is here, would know whether in those invoices any special communications were made by the appraiser. I do not know.

Q. Will you produce any such written communications?

A. They can be produced if they are in the office.

Q. And will you do so?

A. If they are called for.

Mr. TREMAIN. We call for any written communications from the appraiser of the port, during the summer of 1888, respecting those particular invoices, which are as follows: "Nos. 10744, 3343, 3623, 12040, 11401, and 3039."

(Cross-examination of witness suspended.)

390 JAMES BELLUM, sworn and examined.

By the DISTRICT ATTORNEY:

Q. You are now in the employ of the Post-Office Department, are you not?

A. Yes, sir.

Q. Have you any knowledge of music?

A. Yes, sir.

Q. Are you a professor of music?

A. Yes, sir; I am a professor of music. I have a diploma from Germany and a diploma from the board of education in this city.

Q. What institution in Germany?

A. The Royal College of Wurtemburg, Germany.

Q. Have you heard that figure (referring to automatic trumpeter)?

A. I have not heard it playing.

Q. Did you hear it yesterday?

A. I heard the sound.

Q. You heard the toots?

A. Yes, sir.

Q. In your opinion, is it what is commercially known as a musical instrument?

(Objected to.)

Mr. TREMAINE. The opinion of a scientific gentleman, or of an artist, as to what is commercially known is immaterial, and while the gentleman who is on the stand now may be ever so expert as an artist, he may

391 have no knowledge whatever of commerce; but if he has knowledge of commerce, he can testify testing the commercial use. He has not qualified yet.

By the DISTRICT ATTORNEY:

Q. Have you ever seen any musical instruments?

A. Yes, sir.

Q. Handled them?

A. Yes, sir.

Q. Have you seen any music boxes?

A. Yes, sir.

Q. And handled them?

A. Yes, sir.
Q. Do you know what are music boxes?
A. Yes, sir.
Q. Do you know what are musical instruments?
A. Yes, sir.
Q. In your judgment, does that figure make music?
(Objected to.)

The DISTRICT ATTORNEY. It seems to me that one of the primary objects of a musical instrument is to make music.

The COURT. The question is whether it is a musical instrument or not, and that is to be proved by the popular designation.

The DISTRICT ATTORNEY. I can only ask this witness what he would determine it, just as the witnesses of the plaintiff were asked.

392 Mr. TREMAINE. He does not deal in these goods.

By the COURT:

Q. Did you ever see anything of this kind before?
A. Yes, sir; we have some in Germany; it just produces one or two or three sounds.
Q. Which does?
A. Those large figures; some represent emperors; some represent engines; some represent men. They just reproduce one sound—not what we call music.

By the DISTRICT ATTORNEY:

Q. What are they designated?
(Objected to, as it is a question of law how the article should be classified as a matter of fact.)

The COURT. That is to be determined by the character with which it is generally described.

The DISTRICT ATTORNEY. I am asking this witness how these articles are generally described and what they are called. He has seen them before and known of them.

(Objection overruled. Exception for Mr. Tremaine.)

A. They are called playthings.
Q. Did you ever hear them called musical instruments?
A. No, sir.

393 Q. What is a musical note?
A. A musical note is a sound.
Q. How many musical notes does it take to make an octave?
A. It takes eight sounds. We use the alphabetical letters; the eighth sound has the same name as the first.
Q. Could an instrument upon which less notes than an octave be played make what is technically known as music?
A. No, sir.

Mr. TREMAIN. I object. Technique is not proper testimony in this case.

The DISTRICT ATTORNEY. The word "music" is well defined. It is well known what it is. It is harmonious and pleasant to the ear.

The COURT. There is not one out of a thousand who knows what music is and who appreciates it and who can tell you how many sounds there are in an octave.

The DISTRICT ATTORNEY. I do not think that more than two in a thousand would call this a musical instrument. I think I am entitled to have the opinion as to whether it emits music of the man who knows what music is and who has seen these figures before, to give his opinion.

394 (Objection overruled. Question read to the witness.)

A. No, sir; it requires at least an octave and a half.

The COURT:

Q. Do you know what a jew's-harp is?
A. Yes, sir.
Q. What do you call it?
A. A plaything—a toy.
Q. You do not call it a musical instrument?
A. No, sir.

Cross-examination by Mr. TREMAIN:

Q. Did I understand you to say a musical note was a sound?
A. Yes, sir.

The COURT. Do not get into that. It is not pertinent to the case, because the jury will determine under the evidence what is the popularly, commonly, accepted character of this thing, and designation of it.

Mr. TREMAINE. It is cross-examination upon the general subject on which he has been examined in chief.

The COURT. I will not exclude your question.

Mr. TREMAINE. If this instrument is classifiable, as a matter of
395 law it disposes of any cross-examination or any testimony. Our proposition in respect to this instrument is, that it is classified as a matter of law, upon the fact that it produces a succession of musical, harmonious sounds.

The COURT. That is a matter for the jury to decide.

By Mr. TREMAIN:

Q. Is any kind of a sound necessarily a musical sound?
A. Any music is harmonious, and not harmonious.
Q. Is any kind of a sound a musical sound?
A. In common sense, it is music.
Q. Any kind of a sound?
A. Any kind of a sound is music.
Q. Must it not be of the well-recognized notes of the musical scale, in order to be a musical sound?
A. To make it harmonious, it must be.
Q. One note would not be harmonious by itself, would it?
A. It is not musical by itself.
Q. It would be one note, would it not?
A. It would be one note.
Q. And that would be a musical sound, would it not?
A. It would be. One note would be a musical sound.
Q. It takes more than one note at a time to make music, does it not?
A. No, sir.

396 Q. Will one note make music?

A. Yes, sir; for instance, a song.

Q. That is a succession of notes?

A. That is a succession of notes.

Q. That is a melody?

A. That is a melody.

Q. A melody may be by a succession of single notes one at a time, may it not?

A. Yes, sir.

Q. Two or more musical notes in succession produce a melody, do they not?

A. Yes, sir; we understand strict in music, in making melodies they must have variations of at least over an octave and a half. That is the way I was taught.

Q. That is the scientific definition?

A. That is the scientific definition.

Q. Did you ever hear of a melody that did not take as many notes as an octave and a half?

A. No, sir.

Q. Are you familiar with the popular melodies in this country?

A. Yes, sir; the Marseilles, and so on.

Q. Did you ever hear the melody of "Old Folks at Home?"

A. Yes, sir.

Q Does that take an octave and a half to sing?

A. I takes over an octave.

397 Q. Does it take over an octave and a half to sing?

A. It takes over an octave.

Q. An octave and a half?

A. It takes an octave and three-fourths. It is what we call a "fourth."

Q. What is the lowest note in it?

A. It commences with what we call sol and goes up as far as fa.

Q. What is the lowest note in it?

A. As I said, in singing it, it commences with sol.

Q. That is your opinion, that Old Folks at Home takes an octave and three-fourths?

A. Yes, sir; not three-fourths; an octave and a quarter—one-quarter. Then there are always flats and sharps, as we call them, to produce that musical sound to make them melodious.

Q. The flats and sharps are included in the octave, are they not?

A. Yes, sir; they are included.

Q. Do you know of any melodies that take only five notes?

A. No, sir.

Q. Did you ever hear "Days of Absence" melody?

A. Not that I know of; maybe I have.

Q. Did you ever sing it?

A. No, sir.

Q. Did you ever hear it sung?

A. No, sir.

398 Q. Did you ever hear a bugle-call that did not take but three notes?

A. Yes, sir.

Q. Did you ever hear a bugle-call that did not take but two notes?

A. They take more than three; they take five notes.

Q. They play a melody, do they not?

A. Yes, sir.

Q. A succession of notes.

A. Yes, sir; that is, an octave. They play over an octave.

Q. They sometimes play over an octave?

A. Yes, sir.

Q. Do you not know there are some melodies in bugle-calls that take only two notes?

A. No, sir.

Q. Do you not know of a melody in bugle-calls that takes only three notes?

A. No, sir.

Q. As a musician, could you not compose a melody that only takes three notes?

A. No, sir; I could not.

Q. Did you ever know that any musicians have accomplished that feat?

A. No, sir.

Q. What is the lowest number of notes that you ever knew to be included in any melody?

A. That is a question always; composing for or composing for basso, or whatever it is; it is different composition, if it is composed for an instrument—piano or organ—or vocal music, or instrumental music.

399 Q. What instrument do you play?

A. I play the organ and the violin.

Q. What is your present position?

A. I am still keeping on my profession as a musician in the evenings, and I am employed as a clerk in the post-office.

Q. Do you play the bugle?

A. No, sir; I used to play it when I was studying of a musician. In the college I was educated we had to take most every instrument. I am familiar with those instruments. My main instrument is the organ, piano, and violin.

Q. Does the first, third, and fifth of the regular major scale produce any melody?

A. Yes, sir.

Q. That is three notes, is it not?

A. It is no melody. It is what we call a harmonious chord.

Q. If struck at once, it is a harmonious chord?

A. If struck at once, it is a harmonious chord.

Q. If the notes are struck in succession, it is a short melody?

A. It is not what we call a melody; it is harmonious.

Q. It is harmonious, is it not?

A. It is harmonious.

Q. It is a succession of harmonious sounds, is it not?

A. Yes, sir.

400 Q. If you take the first, fifth, and third, it is a harmonious succession, is it not?

A. It is harmonious, as I expressed it, but still not a melody.

Q. It is harmony if struck at once, is it not?

A. Yes, sir.

Q. Is it not a melody if those sounds, first, fifth, and third, are struck in succession?

A. No, sir; you could make it if you strike them in variations; but one after the other, it is not a melody.

Q. If you strike them in variations, it is a melody?

A. It is; and go over the octave; then you can make a melody out of it; but in an octave you can never make a melody. No professor in the world would do it.

The COURT. This is amusing as a musical inquiry, but it does not effect the case for the jury, and that is, whether this thing here is popularly called and known as a musical instrument or a toy.

401 JAMES K. KERR, sworn and examined.

By the DISTRICT ATTORNEY:

Q. I believe you hold an official position under the Government?

A. No, sir; I did.

Q. What business are you in now?

A. China, and glass, and fancy goods.

Q. When you held a position under the Government, what position was it?

A. Examiner.

Q. When?

A. Last February.

Q. How long were you in the service?

A. Four years, I think.

Q. What class of commodities specially came under your attention?

A. Miscellaneous.

Q. Were toys, dolls, and musical instruments classed among miscellaneous features?

A. To some extent; yes, sir.

Q. Are you acquainted with a class of commodities that are commercially known as toys?

A. Yes, sir; classed as toys.

Q. Look at that figure there and tell the jury what you would
402 say the commercial designation of that is [referring to ornamental trumpeter].

A. I did classify that as a toy.

Q. Would you classify that as a musical instrument?

A. I did classify it as a toy.

Q. What would you now classify it as?

(Objected to.)

The DISTRICT ATTORNEY. I am now asking his opinion as an expert; I am not calling him for the purpose of asking him what he classified it himself. I am calling him as an expert, having knowledge of this peculiar class of things, to say what he would call that.

Q. What is the commercial designation you would give to that figure?

A. I would call it a show-piece for a window. That is what I think it was at the time I passed it; to put it in the window to attract a crowd.

Q. You think that would come under the proper classification as a toy?

A. Yes, sir.

Cross-examination by Mr. TREMAINE:

Q. A show-piece for a window?

A. Yes, sir,

Q. Have you ever seen musical instruments in windows?

403 A. I have seen show-pieces in windows to attract attention.

Q. You have seen musical instruments in windows to attract attention, too?

A. Yes, sir.

Q. Quite a common thing in Philadelphia, is it not?

A. Yes, sir.

404 GEORGE H. HOFFMAN, heretofore sworn, examined:

By the DISTRICT ATTORNEY:

Q. You have already been examined and have already testified that you are in the Government employ?

A. Yes, sir.

Q. In what capacity?

A. Assistant appraiser at this port.

Q. Are there a class of commodities in use known as toys and dolls which come to any extent under your consideration?

A. Yes, sir.

Q. Look at that instrument and tell me what commercial designation you would give it [referring to automatic trumpeter]?

A. A mechanical toy.

Q. Are you acquainted with the class of commodities known as musical instruments?

A. Yes, sir.

Q. Do you know anything about music itself?

A. I do.

Q. To what extent, and how?

A. I was brought up in the music business to a certain extent. When a boy, I was in it for thirteen years—musical instruments and toy department.

Q. Have you dealt in musical instruments and toys?

A. Yes, sir.

405 Q. Is that automaton, in your judgment, a musical instrument?

A. It is not.

Q. For what reason?

A. In the first place, it does not make music, and in the second place it is a mechanical toy for the amusement and the attraction of a window, or an establishment, by its automatic motion.

Q. Do you know how many notes that instrument plays?

A. From what I heard, I judge about five.

Q. From your knowledge of music, how many notes does a musical instrument require to be classed as such?

A. An octave and over.

Cross-examination by Mr. TREMAIN:

Q. How would that be of any service as a show-piece in a window without the musical part of the figure?

A. By its automatic movement of its head, eyes, lips, and the motion of its arm.

Q. Would it not answer all the purposes of a show-piece in a window if it did not have any musical departments inside?

A. Equally as well.

406 Q. Supposing you took the musical department that is inside, out, and had that by itself, would that be a musical instrument in your judgment?

A. No, sir.

Q. Would it not be a mechanical device by which a succession of musical and harmonious sounds could be produced?

A. Please repeat that.

Q. If that mechanical contrivance that is inside of this figure was taken out of it and parted from it, would it not still remain a musical contrivance producing a succession of harmonious musical sounds?

A. It would never be a musical instrument.

Q. Would it not still be a contrivance which produced a succession of harmonious sounds?

A. It would produce harmonious sounds.

Q. It would produce a succession of musical notes in the scale, would it not?

A. A portion of them.

Q. And there are only seven notes in the scale?

A. Eight.

Q. And this would produce some of those notes?

A. Some of those notes.

Q. And in what register?

A. I am not a professor of music.

Q. I thought you dealt in music?

407 A. I did when I was quite young. I have been twenty-one years out of the music.

Q. Do you know what those notes are that this mechanical contrivance does produce?

A. The letters?

Q. Yes.

A. No, sir; I do not.

Q. Do you know how many of them it produces?

A. Five, I think.

Q. How could you count them?

A. I tried to count them.

Q. Did you write them down when you heard them?

A. I wrote them down in my memory, or tried to.

Q. Do you not know of melodies that are produced with less than five notes?

A. No, sir.

Q. You do not know of any?

A. No, sir.

Q. Do you not know of bugle melodies that are produced with three notes?

A. I would not call that music.

Q. You would not call a bugle melody music?

A. No, sir; not of two or three notes, or of five.
Q. Not even if they had variations?
A. No, sir; nor of five.
Q. How long ago was it that you were in the musical store?
A. Twenty-one years ago.
408 Q. There are a great many musical instruments that have been made since that time, are there not?
A. At this time we had these identical automatic figures that we sold in the toy department.
Q. Did they produce musical sounds?
A. They produced squeaks. They never were sold as musical instruments.
Q. Did they produce musical sounds?
A. You might call it a musical sound. I wouldn't.
Q. Did they produce notes?
A. They produced two or three sounds.
Q. Were they notes in the musical scale?
A. They were.
Q. In your opinion, this mechanical contrivance, if separated from that figure, would produce a succession of musical and harmonious sounds, would they not?
A. A succession of them?
Q. Yes.
A. If they would produce to the extent of an octave, eight notes, it would.
Q. The mechanical contrivance in this figure, if separated from the figure, would produce a succession of musical and harmonious sounds, would it not?
A. To a certain extent.
409 By the DISTRICT ATTORNEY:
Q. Since you left the music business, twenty-one years ago, have you kept up your interest and study in music?
A. Yes, sir.
Q. Up to the present time?
A. No, sir; up to within about 12 years ago.
Q. Is a succession of sounds without more, music?
A. No, sir.
Q. Does not a saw-mill in sundering a piece of wood emit several musical sounds?
(Objected to.)
Q. The neighing of a horse produces two or three musical sounds, does it not, coming down the scale?
(Objected to. Question withdrawn.)

410 CATHOLINA LAMBERT, sworn and examined.

By the DISTRICT ATTORNEY:
Q. Where do you live?
A. New York.
Q. In New York City?
A. I live in Patterson, New Jersey, in the summer, and in New York in the winter.

Q. What is your business?
A. Manufacturer and seller of silk goods.
Q. How long have you been engaged in that business?
A. Thirty-three years.
Q. Are you the proprietor of mills?
A. Yes, sir.
Q. How many?
A. Five.
Q. How many hands do you employ?
A. In the neighborhood of 2,500.
Q. Where are your mills?
A. Two in Hawley, Pennsylvania; one in Honesdale, Pennsylvania, and two in Patterson, New Jersey.
Q. How long have you been manufacturing silk?
A. 33 years.
Q. Have you a knowledge of silk fabric?
A. Yes, sir.
Q. Of all kinds?
A. Pretty much.
411 Q. Do you manufacture ribbons?
A. Yes, sir.
Q. To what extent?
A. Two thousand pieces a day.
Q. Of about what value?
A. About $4,000 a day.
Q. What proportion of the total manufacture of silks and ribbons is your production?
Mr. TREMAIN. Do you mean in the country?
The DISTRICT ATTORNEY. Yes.
Mr. TREMAIN. I object. He can state his production, and other people can state theirs.
The DISTRICT ATTORNEY. If he knows, he can state it.
Mr. TREMAIN. We object to that as matter of law, and as irrelevant.
The COURT. I do not think so. It may be a means of ascertaining the extent of his knowledge.
Mr. TREMAIN. It puts us upon proof of that. It is a field that is not relevant to this issue.
The COURT. It is a mere method of ascertaining the extent of his experience and knowledge on the subject.
Mr. TREMAIN. He has stated that, and the question asked now is what proportion his product bears to the entire product of the country.
The DISTRICT ATTORNEY. That is to show the extent of his
412 business and experience.
Mr. TREMAIN. If he is asked for his opinion as to the extent of his product, and what ratio that bears to the entire product——
The DISTRICT ATTORNEY. I ask him to state what proportion his production bears to the whole production.
Mr. TREMAIN. That calls for a fact which we object to. If the court says it is at all relevant, it is a mere matter of opinion.
The COURT. Let the witness state.

(The following question was read to the jury:)

"What proportion of the total manufacture of silks and silk ribbons is your production?"

(Objected to. Objection overruled. Exception by plaintiff.)

A. That is a pretty difficult question to answer that way, but I will answer the best I can. Say about one twenty-fifth.

Q. What proportion of your production is silk ribbons?

A. What proportion of my manufacture?

Q. Yes; is silk ribbons?

A. One-half.

413 Q. That is about the one-half of one million two hundred thousand pieces a year, is it?

A. I say one-half of my production is silk ribbons, as near as I can tell, and the other half is silk piece goods.

Q. What portion of ribbons that are manufactured in this country, or with which you are familiar, are used in trimming hats?

Mr. TREMAIN. I object to that. The question must relate to the particular class of ribbons which are the subject of issue here, and that must relate then to the imported ribbons, which is the subject of this controversy.

The COURT. It has been proved here, testified to by a number of witnesses, that all ribbons are trimmings. Mr. Reed wants to know what proportion of the ribbons with which he is familiar are used for that purpose.

Mr. TREMAIN. Are used for trimming purposes.

The COURT. Yes.

Mr. TREMAINE. If that had been the question we would not have objected.

The COURT. For trimming bonnets.

Mr. TREMAIN. He asks what proportion of the production of ribbons that are produced in this country are used for trimming bonnets.

414 We object to that. What proportion of the ribbons that are produced in this country are used for trimming bonnets does not help to show or to controvert that particular ribbons imported in this case were generally used for trimming bonnets. That is the issue here.

The COURT. The testimony that was brought out by you was that ribbons were all and have been for many years used as trimming bonnets. Let the witness answer the question.

Mr. TREMAINE. We are speaking of the imported ribbons. That is the fact as we claim it.

(Objected; overruled. Exception by plaintiff.)

The following question read to the witness:

"What proportion of ribbons that are manufactured in this country, or with which you are familiar, are used in trimming hats?"

A. May I ask another question before I answer this? Do you mean in the date, in this one year, or do you mean from 1886 up to this time?

By the DISTRICT ATTORNEY:

Q. I will ask you each year successively if you can answer, or you can qualify your answer in any way you please.

415 (Question read to witness.)

A. I should say 20 to 25 per cent.

Q. Have you knowledge of imported ribbons?

A. I have.

Q. Do you deal in them?

A. I buy some; I import some; yes, sir.

Q. What proportion of those of which you have knowledge is used for trimming hats and bonnets?

A. I could not answer that question.

Q. In your answer in which you stated that the proportion was 20 or 25 per cent. that was used for trimming bonnets and hats, to what period of time did you refer?

A. To the present time; this year and last year.

Q. What about the year 1886?

A. There would be a little less. The proportion then I would rather say was 20 per cent. than 25.

Q. In 1885?

A. I would say 15 per cent.

Q. In 1884?

A. I think it would be back to 20 or 25 again. It varies according to the fashion of hats.

Q. In the statement that you made about the proportion at the present time being 20 or 25 per cent., did your answer refer to your own product or to the product of the country?

A. It would be about the same in both cases.

416 Q. Please look at these samples and tell me what their commercial designation is, if you know (referring to Wanamaker's samples)?

Mr. TREMAIN. We object to that. The commercial designation of an article that belongs to a class of trimmings does not tend to draw it from trimmings, no matter what its specific name may be.

The COURT. That may be true. That is one means of identifying the character of the goods, but not the only one by any means.

(Objection withdrawn. Question read to the witness.)

A. Fancy silk ribbons.

By the DISTRICT ATTORNEY:

Q. What is their chief material?

A. Silk.

Q. What can they be used for?

The COURT. What are they used for?

Q. What are they used for?

A. They are used for dress trimmings, bonnet trimmings, parasols, decorating purposes, upholst'ry trimmings, fancy work, and thousands of things I do not know the names of.

Q. Have you manufactured any ribbon like that?

A. Some of them; yes, sir.

417 Q. What have you sold them for? For what purpose, if you know?

A. Hat trimmings, dress trimmings, and decorative purposes, trimming slippers, in fact, from the head to the foot of a woman, ribbons are used in some shape or another. I would like to qualify one here.

There is an article here I do not want to call a ribbon (referring to sample No. 313).

Q. What would you call it?

A. A dress-trimming galloon.

Q. Do you make any ribbon like either of those?

A. Yes, sir; here are several I made. Not exactly, but on similar classes of goods. I made some of those. Most of those ribbons I have made, the same goods and patterns, excepting those with velvet in. I have made velvet ribbons but not of late. Of the others I have similar ribbons. They are all fancy ribbons—known to the trade as fancy ribbons of various kinds.

Q. (Exhibit Z shown witness.) Are those samples of your production, and if so, state what they are?

A. This is a fancy ribbon. These are all fancy ribbons to more or less extent. That is a fancy ribbon [indicating]. I did not make those
418 [indicating]. I made that pattern, and that pattern [indicating]. They are sold as fancy ribbons.

Q. Within your knowledge and experience have the samples of ribbon which you now have before you, and which are in dispute, ever been known in any other way than as ribbons or fancy ribbons?

A. Not to my knowledge.

Q. Do you know how they are bought and sold by those who deal in them?

A. Yes, sir.

Q. How are they?

A. Bought as ribbon and sold as ribbon. Very recently they may have invoiced them as millinery ribbons.

Mr. TREMAIN. I move to have that stricken out; it is not testimony.

By the DISTRICT ATTORNEY:

Q. What do you understand in the term "hat trimmings" to mean?

(Objected to, because there is no such term in the statute, and it is irrelevant, immaterial, and incompetent. Objection sustained.)

Q. Do you know what articles were embraced within the term "trimmings for hats and bonnets" in the year 1883?

Mr. TREMAIN. We object to that. The term "trimmings," in the first place, is a word of common signification that is not capable of being
419 explained to a court by any scientific or expert testimony. We submit it is of that character of nouns which is spoken of by the Supreme Court when it discussed the question of shawls and wearing apparel. There was a duty placed upon wearing apparel, and it was attempted to show that shawls were not wearing apparel, because they were not commercially known as wearing apparel.

(Mr. Tremain quoted at length from opinion of Supreme Court in the above case.)

The COURT. There is no doubt about that.

Mr. TREMAINE. I call your honor's attention to the circumstance that the word "trimmings" is in the tariff act of 1883.

The COURT. I do not think the work "trimmings" used in the tariff act of 1883 in its popular sense needs any explanation. Ask the witness what were used as hat trimmings at that time.

(The following question read to the witness:)

"Do you know what articles were embraced within the term 'trimmings for hats and bonnets' in the year 1883?"

The COURT. That is not a proper question; that is asking the witness to give a definition to "trimmings."

420 The DISTRICT ATTORNEY. If the witness knows what were used as trimmings at that time, and what were known as trimmings in 1883, it seems to me it is entirely competent for him to testify to that fact. That is one of the inquiries we are bound to make at this time.

The COURT. You can get at it in this way: Show what were used for that purpose. Your question asks the witness to define what has a well-defined meaning. Hat trimmings mean things that are put on hats for ornamentation, or to attract attention, or something of that kind.

The DISTRICT ATTORNEY. The contention of the Government is, that we are entitled to ascertain what the commercial meaning of the term "trimmings" was in 1883, when it was used.

The COURT. It is a popular word, and it is evidently used in that sense.

The DISTRICT ATTORNEY. It may appear later in the case that it was not, when we come to argue this question. At the proper time I will show your honor it was used in various places in the act, and there was always a recognition by Congress in the act itself that the term "silk ribbons" was one term and "trimmings" another.

421 The COURT. That may be where they are distinguished in the act. The word "trimmings" in this section of the act has a meaning that is perfectly obvious. That is, it is something used in connection with the ornamentation of the head. What articles compose that may depend upon what articles were used for that purpose.

(Question read.

Objection sustained. Exception by defendant.)

Q. Do you know what were used for, and called, trimmings in 1883 for hats and bonnets, at the time of the passage of this act?

Mr. TREMAIN. We object to that. We have no objection to the line of inquiry opened by us as to what were the commodities that were used to trim hats with.

The COURT. That is what the district attorney was asking him.

Mr. TREMAIN. If the question was limited to that, we would not object. The question asked now, for what were the articles that were called trimmings. It puts the witness in the attitude of explaining to this court what the word "trimmings" means.

The DISTRICT ATTORNEY. Not necessarily.

422 Mr. TREMAINE. Not necessarily, but it implies that, for my learned friend in his opening has told the jury that he expects to do that thing.

The COURT. We will pass on that when the time comes.

(Objection overruled. Exception for plaintiff.

Question read to the witness.)

A. Velvets, feathers, flowers, ribbons, ornaments, bead ornaments, and other things, which I can not remember, were used in trimming hats at that time. In going back to 1883, is five years ago, and it is pretty hard to tell all the articles that were used then.

By the DISTRICT ATTORNEY:

Q. Was there not at the time of the passage of this act, the tariff act, a special class of articles that went by the commercial designation or title of "trimmings?"

Mr. TREMAINE. I object to that as immaterial and irrelevant. In 1861 there was an act passed which read in the language of the present statute, and the interpretation of the word "trimmings" can not be explained by any commercial usage.

The DISTRICT ATTORNEY. My inquiry is directed to the time of the passage of this act. If I want to I can go back to that.

423 Mr. TREMAIN. The word was first used in tariff acts in 1792. The term "trimmings" in respect to ornamenting hats appears in the tariff act of 1861. The term with respect to other articles appears in the act of 1816, 1848, and 1846. We object to the question in the present form as immaterial, irrelevant, and incompetent.

The COURT. What are "hat trimmings" is the matter in controversy here, if they have any special definition.

The DISTRICT ATTORNEY. I propose to follow this up by testimony from witnesses who are familiar with the subject, and who will testify there were certain articles that were used for the purpose of making and ornamenting hats that were known to the trade as "trimmings," and so called, and are recognized by Congress all through the steps it has taken in the passage of tariff acts.

Mr. TREMAINE. If that is so, it should go back to 1861, when the term was first used.

The COURT. The presumption is, if it was used in an act of Congress before, it was used in the act of 1883 for the same purpose.

(Objection overruled. Exception by plaintiff.

The following question read to the jury:)

424 "Was there not at the time of the passage of this act, the tariff act, a special class of articles that went by the commercial designation or title of "trimmings?"

A. Yes, sir.

Q. There was?

A. Yes, sir.

Q. What were they?

A. You did not say what trimmings; you said "trimmings."

Q. Yes; "trimmings."

A. There were dress trimmings and hat trimmings; you asked me if there was anything went by the name of "trimmings" in 1883.

Q. What is your answer?

A. I said there were.

The COURT. Confine it to "hat trimmings."

A. Hat trimmings were known further back.

By the DISTRICT ATTORNEY:

Q. Are you familiar with these articles, Exhibits "2," "W," and "X," and "Y?"

A. Yes, sir; I am.

Q. To what extent?

A. I know well what they are; laces, and straw plats, and braids.

Q. Is the value of ribbons changed by the purpose for which the article is used?

A. Not necessarily.

Q. Is it a matter of fact, or is it not, that the uses to which ribbon of various kinds are put are subject to the change that fashions demand?

425

A. It is.

Q. In what respect?

A. As the fashion changes the value changes.

Q. The value of the particular ribbons changes?

A. Yes, sir.

Q. A ribbon that is used for dress-trimming one season may be used for another purpose in another?

A. Not what it is used for; the fashion changes—the value changes.

Q. Do the uses of a ribbon change in the same season?

A. Oftentimes.

Q. Have you or do you import ribbons like the samples in question in this case?

A. Not just like these, but fancy ribbons I have imported. Not precisely like these patterns. There may be one pattern here.

Q. You have no interest in this suit, have you?

A. I have a big interest.

Q. In what respect?

A. Five mills and 2,500 men at work. I am interested that this duty should not be reduced from 50 to 20 per cent.

Q. How would it effect you?

A. My mills would not be worth much. I should not come on here to attend this suit if I was not interested.

426

Cross-examination by Mr. TREMAIN:

Q. You have tried to have the law changed, have you not?

A. Yes, sir; keep trying; not changed, but explained.

Q. Do you sell your ribbon through a commission house?

A. I do.

Q. That is the way you dispose of your product?

A. Yes, sir.

Q. They have salesmen to distribute it through the country?

A. They have. I have the salesmen and they pay the bills—they pay the wages.

Q. How large have been your importations of fancy ribbons in five years?

A. Not large.

Q. What proportion to your product?

A. Very small.

Q. So as to keep you informed as to the styles and products abroad?

A. Exactly; you have hit it; so that I could see what they are making, and find out what their value is—to find out what they are about.

Q. All those ribbons are trimmings, are they not?

427

A. May be used for trimmings.

Q. That is this principal use, is it not?

A. I would not say so.

428 HENRY C. SOUTHWORTH, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. In New York City.

Q. How long have you lived there?

A. I have lived there since 1845.

Q. What is your business?

A. My business at present is in the examiner and appraiser's department in New York City.

Q. How long have you occupied that position?

A. It will be four years in the 28th or 29th of December next.

Q. In what business were you engaged before you took that position?

A. Since 1845, I have been engaged in the silk goods business, the straw goods business; the artificial flower business, and all business appertaining to what is termed millinery goods, from 1845 to about 1878, and since then from 1878 onward, my attention has been more particularly drawn, until I took the office under the Government, to domestic goods—selling domestic silk goods, hat ribbons, and ribbons principally.

Q. Is the examination of the importations of ribbons into the port of New York part of your duty?

A. It is at the present time.

429 Q. How long has it been so?

A. Since December, 1884.

Q. Are you able to state about the value of the importations into the port of New York, of the item of silk ribbons during any one year?

(Objected to.)

The DISTRICT ATTORNEY. It goes, to some extent, to show the means of information and knowledge of this witness on this subject—to show the quality of his inquiry and examination.

The COURT. You can ask him to what extent he has made examination of ribbons.

(Objection sustained.)

By the DISTRICT ATTORNEY:

Q. To what extent have you examined samples of ribbons or ribbons represented by the samples submitted to you for inspection in any one year?

A. All the ribbons that are entered at the port of New York for consumption, or for use in any way, pass through my hands for examination.

Q. And have for how long?

A. Since 1884, and some from Philadelphia, also.

Q. What do they amount to?

(Objected to. Objection overruled.)

430 Mr. TREMAIN. What do they amount to in character or value?

The DISTRICT ATTORNEY. Generally.

A. Do you mean the number of pieces or the value?

Q. Both.

A. I do not think I am prepared to state the number of pieces, but I can make an estimate. Some were in the neighborhood of two millions and two millions and a half, possibly, each year. I mean dollars. I mean the value.

Q. Do you know what proportion that is of the whole importation of silk ribbon into the country, for the same year?

(Objected to. Objection sustained.)

Q. From your experience as one who has handled silk and ribbons, will you kindly look at these samples and tell me what is their commercial designation, and what has been their commercial designation for many years past (referring to Wanamaker's samples).

A. Under the general head of ribbons.

Q. How long have ribbons of that character or articles of that character been known and called ribbons?

A. I can not say how long, but so far as my own observation is
431 concerned, since 1845.

Q. Were they ever known within your knowledge by the term of "trimmings?"

(Objected to.)

The DISTRICT ATTORNEY. I think I am entitled to show whether these articles have names or not.

Mr. TREMAIN. How they were specifically known is of no consequence.

The COURT. I do not think it makes any difference.

(Objection overruled. Exception by plaintiff.)

(Question read.)

A. I can not answer that question without qualifying—am I allowed to qualify my answer?

The DISTRICT ATTORNEY. Certainly, you are allowed to qualify. Give the best answer you can under the circumstances.

A. It depends somewhat who is the purchaser and seller of goods.

Q. What do you mean by that?

A. Possibly if Wanamaker, or some other milliner in Philadelphia, or in New York City, or in any other large city, should buy a dozen or
432 15 or 20, or one hundred pieces of those goods, they would possibly buy them for the purpose of trimming bonnets, and they might possibly call them trimming ribbons or millinery ribbons, or fancy ribbons.

Q. That does not exactly answer my question. I want to know whether within your knowledge and experience—I make the question a little narrower now—whether they were ever known commercially as trimmings?

(Objected to as leading and improper in form.)

The COURT. We will allow him to answer the question in that form.

A. Not commercially known as trimmings.

By the DISTRICT ATTORNEY:

Q. Within the last 28 years, going back to 1861, if your experience carries you back that far, do you know of any article that was used to make or decorate a hat or bonnet for a woman that had a commercial designation as a trimming?

A. There were certain articles about the year 1861 to 1865 that we dealt in with the firm of & Co., of New York, which we specially dealt in as trimmings.

Q. What were they?

A. They were composed of straw, horse-hair; composed of cotton thread, imitation of straw, and in the form of ornaments; in the

433 form of braids; in the form of plaits; in the form of trimmings, and in the form of garlands with tassels at the end, which we denominated under the plain term of trimming.

Q. (Exhibits Y, X, W, U, V, and T shown witness.) Please state from your experience, having dealt in that style of goods, what is their commercial designation.

Mr. TREMAIN. We object to the witness stating the commercial designation of some article, not the article in controversy.

The DISTRICT ATTORNEY. I propose to show that this class of goods was of the class mentioned and described in the act relating to this subject of making and ornamenting hats with certain specified articles. I want to show by this witness that these very articles are enumerated in that act—are known as plaits, braids, laces, and trimmings, to be followed up on Monday morning by the production of the other articles enumerated in the act; and that these very things were dealt in at the time of the tariff act of 1861 and since as the particular things enumerated in that section.

(Objection sustained.)

Adjourned to Monday, October 8th, 1888, at 10.30 a. m.

434 U. S. circuit court, eastern district of Pennsylvania. October term.

WANAMAKER,
vs.
CADWALADER.

Before Hon. William McKennan, justice, and a jury.

FOURTH DAY.

PHILADELPHIA, *Monday, October 8th*, 1888—10.30 a. m.

Present: Messrs. Kingston, Pritchard, and Tremaine for plaintiff; the district attorney for the Government.

EDWARD ROWE, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. I live in Brooklyn, New York.

435 Q. What is your business?

A. At present I am deputy and assistant appraiser at the port of New York.

Q. How long have you been such?

A. Since three years ago last July.

Q. What was your position prior to your assuming that position?

A. I was an importing merchant of New York since 1848.

Q. What kind of goods did you import?

A. Silk dresses, hat ribbons, and linings, and bandings, and all sorts of kinds of straw goods; artificial flowers. In fact, everything connected with the millinery trade, in connection with hats for ladies', boys', and men's wear.

Q. Since 1848, I understand you?

A. Since 1848.

Q. State what class of commodities, if any, from the year 1862, and thence continuing until the time of the tariff act of March 3rd, 1883, were bought and sold under the commercial designations of trimmings used for the making and ornamentation of hats.

Mr. TREMAIN. I object to the form of the question, in the first place, and also to the substance as calling for the commercial designation. We would have no objections to such a question, as not being leading
436 in its character, would ask this witness what were the commodities which, in fact, were trimmings used for making or ornamenting hats; but to assume in the interrogatory that there is any class of goods that are specifically described under a commercial term and commercial designation we object to. I press the objection as to form.

By the DISTRICT ATTORNEY:

Q. State whether or not, at the time of the passage of the act of March 3rd, 1883, and prior thereto, from 1862, there was a class of commodities commercially known as trimmings used for the making and ornamenting of hats, and so forth?

A. There were.

Q. What were they?

A. They were an article manufactured in Wielen, Switzerland, called straw trimmings and laces, which were largely imported for that purpose, and are to-day.

Q. Have you any samples of these articles?

A. I brought samples on with me from New York.

Q. Where are they?

(Samples produced.)

Are the samples which you hold in your hand samples of the articles which you have mentioned?

437 Mr. TREMAIN. We object. Those samples have not been identified. We ask the question be put in such shape as the court will rule upon it.

The COURT. I understand that the district attorney is leading up to that.

Mr. TREMAIN. Those samples are not identified. My suggestion to the court is this, in substance: That it should not be permitted for any samples to be handed to the witness to be made the subject of testimony, and therefore impose upon the plaintiff the possible necessity or expediency of calling a large number of witnesses respecting the opinions of the Government witnesses upon samples and goods that are not in controversy in this case. My suggestion is a substantial one, because if the course that is now suggested by the learned district attorney, of producing samples ad infinitum to witnesses and asking their opinions upon those samples, shall be pursued, the only result that we can see is that we are drawn into the trial of a series of issues upon a large number of samples that are not in controversy in this case. If that course is to be pursued during the progress of the trial, we should like to have the court advised in advance of our views upon that subject and of the result of the trial, if they
438 be of importance to all, of going into a large number of samples of merchandise which are not in controversy here. Our suggestion is that the proofs and the issues must be limited to the use of the particular trimmings which are the subject of the controversy here.

The COURT. That is very true; but still I understand the district attorney proposes to show that these articles in that carte are the articles which were commercially included within the denomination of trimmings.

The DISTRICT ATTORNEY. That is it exactly.

The COURT. And those alone?

Mr. TREMAIN. Suppose they were. We have no controversy about that. We have no doubt about the fact that, in addition to our articles, a very large number of articles of various kinds and various materials were commercially known. How does it progress as to what becomes of our articles?

The COURT. They are stated specifically in the tariff act. The district attorney proposes to go further, and to show what the articles were, and that they were exclusively of that character.

The DISTRICT ATTORNEY. They were alone meant.

439 Mr. TREMAIN. He proposes to show that they were alone meant, but I do not understand that the Government at any time has claimed, or proposes now to show to the court, that there was a class of articles that were exclusively trimmings used for making and ornamenting hats.

The COURT. Unless that description excludes ribbons it does not amount to anything, and that is what the district attorney is driving at, as I understand it.

Mr. TREMAIN. If that is proposed, to show that there was a class or is a class of articles exclusively known in the trade, that we submit does not progress the case at all, because it is not within the province of the court to restrict the legislative language to any exclusive trade use, and it has been said so many times that when tariff phrases are used in descriptive sense and in their natural import, as this phrase has been declared to have been used by the Supreme Court decision, that it is not within the province of testimony in respect to any peculiar restricted commercial signification to change the judicial impression that must be given to the legislative language.

The COURT. There is no doubt about that. This is only one way of ascertaining what was meant by the term in the act of Congress.

440 Mr. TREMAIN. We are not at issue with the court. It is suggested on our part that the testimony should be limited to the ribbons and to the chief use——

The COURT. It is limited in its intent or import to ribbons. This is one way of getting at it. Here is a class of articles described as trimmings. The district attorney proposes to show what that class consisted of, and that ribbons were excluded.

Mr. TREMAIN. He does not say so. He does not pretend to say ribbons were excluded.

The COURT. In other words, the articles are shown exclusively to be comprehended by these articles.

Mr. TREMAIN. He proposes to show some other goods are trimmings, and a proposition we never have disputed.

The COURT. He proposes to show other goods are trimmings, and those alone are commercially known as trimmings. That is, in fact, showing ribbons did not apply to that class.

Mr. TREMAINE. The district attorney has not said that. If the learned district attorney proposes to show to this court, and states that he proposes to prove that ribbons are not included in the class or
441 articles commonly described or commercially described as trimmings used for making or ornamenting hats, we are entitled to the candid statement to the court. We have not yet had it.

The COURT. I so understand it. That I understand to be the intention of the district attorney.

Mr. TREMAIN. Our learned friend has not said that. The Government has never taken the position that ribbons are not trimming. We are entitled to that statement from the district attorney.

The DISTRICT ATTORNEY. It has been stated in the opening, and it has been stated in the whole line of examination and I state now, that Congress never meant to include ribbons in the classification of trimmings.

Mr. TREMAIN. If it is proposed to prove that ribbons do not belong to the class of articles that in common speech, as well as commercial usage, are within the class of articles described as trimmings, used for making or ornamenting hats, we submit that it is reasonable that we should have the Government say so.

The COURT. Then what else does the testimony mean, if it does not mean that?

Mr. TREMAIN. It means some other goods are.

442 The COURT. What does it mean if it does not tend to prove that?

Mr. TREMAIN. We submit it does not tend to prove it. We have no question that there is a large number of goods that are trimmings besides ours.

The COURT. A large number of articles that are called trimmings, and to which alone the commercial designation applies.

Mr. TREMAIN. That is not the offer.

The COURT. It would not advance the inquiry a bit to show that there were other things beside ribbons.

Mr. TREMAIN. I submit the order of proof should be to show that the ribbons are not of the class.

The COURT. That is the point to which the testimony must tend or it does not amount to anything. It is no answer to your case, because you have shown by the testimony of a number of witnesses that ribbons are known as trimmings.

Mr. TREMAIN. Then why should the other sample be put in?

The COURT. For the purpose of showing that in the class of
443 trimmings is included certain articles, and that they alone are commercially included.

Mr. TREMAIN. The witness has not said that.

The COURT. Nobody contends for a moment that these other articles are not trimmings.

(Question read to witness.)

Mr. TREMAIN. I object, because those samples are not proven.

The COURT. Call them articles.

The DISTRICT ATTORNEY. We call them articles.

Mr. TREMAIN. We object to the introduction of articles that are not in controversy in this case.

The DISTRICT ATTORNEY. You have introduced hats and bonnets.

Mr. TREMAIN. We produced nothing else but ribbons. We object to that, and ask the benefit of his honor's ruling.

(Objection overruled. Exception by Mr. Tremain.)

(The following question read to the witness:)

"Are the samples which you hold in your hand samples of the articles which you have just mentioned?" (Cartes No. 4 and No. 12 shown witness.)

A. Yes, sir.

By the DISTRICT ATTORNEY:

444 Q. Please indicate to the jury the title of each of the articles you have in your hand.

Mr. TREMAIN. I object. The title of other articles comprised within the class of trimmings is not a matter that is relevant or material, and does not progress the determination of this particular issue. We have not disputed that there are other articles having other titles, and we have shown hundreds.

The COURT. I think I have already intimated that the proofs amount to nothing if they do not tend to exclude ribbons.

Mr. TREMAIN. We submit the question is immaterial and irrelevant.

(Question read. Objection overruled. Exception by Mr. Tremain.)

A. Those are made in Wholen, Switzerland. They are made and used exclusively——

(Objected to.)

The COURT. Never mind where those goods are made. The question is one of designation.

A. They are designated as straw trimmings.

Q. Do you exclude everything else?

A. They are made exclusively, and can be for nothing else but trimming ladies' bonnets.

445 The COURT. That is not the question—whether they can be used for anything else.

The DISTRICT ATTORNEY. I wanted the witness, if he could, to indicate to the jury what each of the articles were known as. Some of them, as I understand it, are known in the trade as braids; some plaits; some as laces; some as tissues; and some as trimmings.

The COURT. It is the class designation you want.

The DISTRICT ATTORNEY. I propose to show that the trimmings indicated by the witness, and about which he is testifying, were the trimmings that Congress meant, and the class that they intended to include, and those only. I thought that was the shortest way to do it. I will follow it up with the necessary questions.

Q. Are those articles, the articles which you have mentioned as being commercially known, and those only known, as braids, plaits, trimmings, used for making and ornamenting bonnets?

A. That entire list is for trimmings.

(Objected to.)

Q. What were they known as during the period that I have mentioned, from 1862 down to 1883?

A. Straw trimmings. They are known by that, and always have for 35 or 40 years.

446 Q. To your knowledge, was there any other article or class during that period known commercially as trimmings for making and ornamenting hats?

(Objected to as immaterial and irrelevant, because the question does not tend to show that ribbons are not trimmings.)

The COURT. You better ask him directly whether ribbons were commercially known as trimmings.

The DISTRICT ATTORNEY. I propose to show that by a number of witnesses I have here.

The COURT. That is the point of the controversy. Let us come to it at once.

The DISTRICT ATTORNEY. During the time that you have mentioned in your testimony, were ribbons known commercially as trimmings?

(Objected to, as all ribbons are trimmings as a matter of English.)

The COURT. I think that is the conslusion to be reached one way or the other, whether ribbons are hat trimmings as commercially known.

(Objection overruled. Exception by Mr. Tremain.)

(Question read to the witness.)

447 A. In my experience of 40 years in business, they were never known as trimmings. I do not think you can find in the tariff the word "trimmings" used but once, and that is in connection with these articles in section 448.

By the DISTRICT ATTORNEY:

Q. I understood you ribbons were never commercially known as trimmings, and you said since 1862 down to 1883, articles that you held in your hand were commercially known as straw trimmings?

A. This lot is different (indicating). These are trimmings (referring to carte 4). Carte No. 12 does not contain trimmings. Carte No. 12 are used for making ladies' bonnets.

Q. What are these (referring to carte No. 4)?

A. All of these are trimmings; they are worked in with silk and various other articles.

Q. What are they known as?

A. They are known as trimmings now—straw trimmings.

Q. Please look at Wanamaker's samples and state whether, within your knowledge and experience, those samples were ever known as trimmings.

(Objected to.)

448 Mr. TREMAIN. This gentleman has not qualified as knowing anything about ribbons yet.

The DISTRICT ATTORNEY. He stated that he had sold all kinds of millinery goods, and was a milliner for 40 years.

Q. Are you familiar with that class of goods?

A. Yes, sir.

(The following question read to the witness:) "Please look at Wanamaker's samples, and state whether within your knowledge and experience those samples were ever known as trimmings?"

(Objected to as immaterial and irrelevant.)

The COURT. Is not this a direct answer to the bulk of your testimony?

Mr. TREMAIN. Here is a Government officer; I would like to have him ask a specific question, to call out what he knows.

(Question read to the witness.)

The DISTRICT ATTORNEY. Whether, within your knowledge and experience, they were or were not commercially known as trimmings?

(Objected to. Objection overruled. Exception by Mr. Tremain.)

A. They are known commercially as ribbons.

449 Q. That is not answering my question altogether. My question is, whether they were all known commercially as trimmings?

A. Not to my knowledge. What they may be known as, in the millinery shops or retail shops, I do not know. I speak now as a merchant.

By the COURT:

Q. Do you know what they are in a millinery sense of the word? Whether they are trimmings, or not?

A. They are used for trimming dresses, waist belts, and all that sort of thing—general trimmings, I suppose, they are used for, but they are known commercially as ribbons.

Q. In the sense of the millinery trade, are they known as trimmings, or not?

A. No, sir; they are all as ribbons known in the millinery trade as ribbons.

Q. What are those samples? (Samples shown witness.)

A. Those are known as tissues, for the manufacture of bonnets.

Q. What is the commodity that I have shown you?

(Objected to.)

The DISTRICT ATTORNEY. These articles are enumerated in the same section in which the word "trimming" is used. I shall argue to

450 the court that the word "trimmings" is used and intended only to describe trimmings of the same class or nature or substance as are enumerated in that section.

The COURT. You have the evidence that those are tissues.

The DISTRICT ATTORNEY. Yes, sir, I have a number of articles that I want to indicate in the same way, and for that purpose alone.

Q. Please indicate those samples in this box.

A. Those (Exhibit No. 358) are tissues; those (Exhibit 357) are trimmings; those (Exhibit 356) are plaits for the manufacture of hats and bonnets—straw flats; those (Exhibit 849) are horse-hair trimmings; those (G, H, D) are manilla trimmings—made of manilla grass; those (Exhibit 355) are ornaments for ladies' hats—made of straw; this (Exhibit 354) is material for making ladies' bonnets; this (Exhibit 7144) is embroidered straw for ladies' bonnets; those (Exhibit 349) are willow sheets for frames for ladies' bonnets. That takes in my entire stock of trade.

Q. During the time that you were engaged in business, to what extent were you so engaged?

A. What do you mean?

Q. Whether you were engaged largely, or in a moderate way?

A. I was the largest importer in the United States for 27 or 28 years.

451 Cross-examination by Mr. TREMAIN:

Q. When did you go into the appraiser's office?

A. Three years ago the 22nd of July last.

Q. You were appointed assistant appraiser and confirmed by the Senate?

A. I was appointed deputy assistant appraiser.

Q. You were appointed assistant appraiser and confirmed by the Senate?

A. Yes, sir.

Q. That is the only office you hold?

A. I am a deputy appraiser.

Q. You are an assistant appraiser?

A. I am deputy, too.

Q. Is not that an appointment from the President?

A. Yes, sir.

Q. You are commissioned assistant appraiser by the President and confirmed by the Senate?

A. Yes, sir.

Q. Do you hold any other office?

A. Deputy appraiser.

Q. That is a letter of authority from the Secretary of the Treasury?

A. Yes, sir.

Q. Authorizing you to act in the absence of Appraiser McMullen, of New York?

A. That is it.

452 Q. That is all that means?

A. That is all that means.

Q. Do you hold any other office?

A. I am a member of the board of education of the city of Brooklyn, and have been for 24 years.

Q. Do you hold any other office under the United States Government?

A. No, sir.

Q. When did you cease to be an importer?

A. I ceased on my own account, in 1878.

Q. When did you begin?

A. In 1847. Allow me to say one word still further; my sons succeeded me in business.

Q. Do I understand you to say that you went into business in 1848?

A. I went into the straw-goods business in 1847.

Q. And commenced to import immediately?

A. Yes, sir.

Q. Do I understand you to say from 1843 to 1878, you were the largest importer here in the United States?

A. Yes, sir; of straw goods?

Q. You did not mean to say you were the largest importer in the United States?

A. No, sir; that was my specialty; straw goods, and that connection with it.

453 Q. During all that time, from 1847 to 1878, did you or your house pay more duties thay any other house upon straw goods?

A. Yes, sir; by a long shot.

Q. How many houses were there engaged continuously?

A. Four.

Q. How many houses were there engaged continuously during the entire period in the importation of straw goods?

The COURT. Is that a matter of any consequence?

Mr. TREMAIN. I want to show this gentleman's experience, and I propose to show that there was no such exclusive appellation of the term "trimmings" as this gentleman had implied.

The COURT. He has said generally that he was the largest importer.

Mr. TREMAIN. He says now there were only four such houses continuously during the whole of that time.

The WITNESS. Continuously. There were other houses.

The COURT. I do not think that is a matter of any consequence.

Mr. TREMAIN. Such invoices come under your supervision now in your department of the appraiser's office?

A. Yes, sir.

454 Q. Are they subjects now of import?

A. Yes, sir.

Q. Such articles are represented by the samples you identified?

A. Yes, sir.

Q. Are there any large importations of them?

A. They are fairly large now, but the imitation is coming in very large.

Q. Have there been very large importations during the time you have been in the appraiser's office of goods represented by the samples you have just identified?

A. No, sir; they have not been large.

Q. Prior to your going out of business in 1878, were not goods represented by the samples you have just identified largely manufactured in this country?

A. No, sir.

Q. They were not?

A. No, sir.

Q. Did they not manufacture straw braids in this country?

A. No, sir.

Q. They do now, do they not?

A. No, sir; they tried it about 30 years ago in Massachusetts, and it was a failure, and they could not make them on account of the cheap labor in Europe.

Q. Do they not make straw tissues in this country?

A. No, sir.

455 Q. Do they not make any kind of straw trimmings in this country?

A. Not that I am aware of.

Q. Are there any other kind of laces used in trimming hats except laces made of straw?

A. Yes, sir.

Q. They are dealt in by milliners?

A. I suppose they are. They have not come under my observation, although I have seen laces on ladies' hats.

Q. We understood you to say in your examination in chief that carte No. 4 are straw trimmings?

A. Yes, sir; known as such.

Q. Carte No. 4 contains how many samples?

A. 30.

Q. Are they all made of straw?

A. No, sir; they are made of straw and hair.

Q. How many are made of hair?

A. Eleven made of hair embroidered with straw, and all of the rest are pure straw.

Q. In that carte I understand you to say they are some braids?

A. No, sir; the other carte are all braids.

Q. Are there no braids in this (carte No. 4)?

A. No, sir.

Q. Are there any tissues there?

A. No, sir.

Q. Are there any laces?

456 A. Not what you term laces. Those are what we term laces (referring to carte No. 12); there are no laces in this (referring to carte No. 4); they are straw trimmings.

Q. Are there any laces in carte No. 4?

A. Not what is called laces in trimmings, not commercially known as laces. They are known as trimmings.

Q. Are you able to answer the question yes or no?

A. Have I not answered it?

Q. I do not think you have.

A. Please repeat it.

Q. Are there any laces in that carte? (Referring to carte No. 4.)

A. How do you want me to answer; by what is known in the trade?

The COURT. Answer that question.

A. They are bought and sold, these are, as straw trimmings, and known commercially as such. The others are bought and sold as straw laces.

By Mr. TREMAIN:

Q. Among the 30 samples of carte No. 4, are there any laces?

A. I have answered the question to the best of my ability.

Q. Are you able to answer that question yes or no?

457 A. I answer the same as I have, and know no other way to answer it.

Q. Do I understand you to say that you are unable to answer yes or no to the question, whether there are any laces in that carte?

A. That is a question—what you call laces.

Q. Are you able to answer yes or no to the question, are there any laces at all among those 30 samples?

A. I can only answer by saying that there are no laces here; what is known in the trade as laces.

Q. Are you able to answer yes or no to that question?

A. I am.

Q. Showing you carte No. 12, how many samples are there there?

A. 27.

Q. What is the commercial name of No. 1?

A. Straw laces.

Q. What is the commercial name of No. 2?

A. They are all straw laces.

Q. Is the commercial name of No. 2 straw laces?

A. Yes, sir; every one of them are straw laces.

Q. Your testimony is that the commercial name of every one of these is straw laces?

A. Straw laces.

Q. Look at those 27 samples and say whether any one of those samples has any other commercial name than straw laces?

458 A. Not so far as my knowledge goes.

Q. Have any one of those 27 samples any other specific name or any other specific designation in trade than as straw lace?

A. No, sir.

Q. (Exhibit 358 shown witness.) That, I understand you to say, was a tissue?

A. Tissue; yes, sir; straw tissues.

Q. That is a straw tissue?

A. Yes, sir; it is called straw tissue. There is no straw in it; it is made of hemp.

Q. Are tissues made of any substance except made of straw?

A. Made of hair and some silk goods with these here.

Q. Are they made of any other material?

A. Cotton, that I know of.

Q. Made of cotton?

A. Cotton is mixed with them in some cases.

Q. Are they made of thread?

A. Cotton thread; cotton warp, perhaps, and welt; one or the other.

Q. Are they ever made in part of silk?

A. Sometimes they are.

Q. Are they ever made entirely of silk?

459 A. I have never seen them; not in this trade.

Q. I am asking you for your knowledge of the fact?

A. I know there are tissues made of silk; yes, sir.

Q. Do you know what gimp is?

A. Yes, sir.

Q. Are there gimps made of straw?

A. Yes, sir.

Q. Are there gimps made of silk?

A. Yes, sir.

Q. And of cotton?

A. Yes, sir.

Q. Do you recognize gimp if you should see it?

A. Yes, sir.

Q. What is gimp made of; straw?

A. It is a little narrow trimming; perhaps a quarter or three-eighths or an inch wide.

Q. Do you see any gimps in carte No. 4?

A. No, sir.

Q. It is a trimming, is it not?

A. Yes, sir.

Q. A braid or trimming?

A. Yes, sir.

Q. Is a tissue trimming?

A. That is a straw trimming; not tissues.

Q. Is tissue a trimming?

A. No, sir; it is to make the hat.

Q. Do they make hats out of silk tissue?

A. I do not know that they do.

Q. They trim them with silk tissue, do they not?

460 A. I cannot speak understandingly. I have an idea that they do, but I do not know that fact. I never dealt in those articles.

Q. Are ladies' hats made exclusively of straw?

A. I suppose in the United States 7-tenths of all the hats that are made are made entirely of straw.

Q. That is your supposition?

A. Yes, sir.

Q. Are ladies' hats made exclusively of straw?

A. Made of silk, and made of various things—made of that willow sheet you have there.

Q. What do you know that ladies' hats are made of?

A. I know they are made of straw.

Q. What else?

A. They are made of velvet.

Q. What else?

A. They are made of silk.

Q. What else?

A. They are made of cotton.

Q. What else?

A. They are made of the sparitere you have—willow sheets there.

Q. What else?

A. I do not know that I know of anything else.

Q. Are they made of felt?

A. Yes, sir.

Q. Made of wool?

A. Fur, felt, and wool; yes, sir.

Q. Are ladies' hats trimmed with anything else except straw

461 trimmings?

A. Yes, sir.

Q. What else?

A. Artificial flowers, and feathers, and ribbons.

Q. What else?

A. Birds.

Q. What else?

A. I cannot tell of anything else. That covers about all; artificial flowers, feathers, and birds.

Q. Are they not trimmed with tissues?

A. That I do not know. They are trimmed with velvet. I presume they are trimmed with tissues.

Q. Do you know that ladies' hats are trimmed with velvet?

A. No; I do not.

Q. Do you know they are trimmed with braids?

A. What kind of braids?

Q. Any kind?

A. No, sir; I do not.

Q. Do you know that men's hats are trimmed with braids?

A. No, sir.

Q. You do not?

A. No, sir.

Q. Do you know any kind of a trimming for hats or bonnets that is a braid?

A. No, sir; I do not think I do; hats are trimmed with jets; jet trimming—ladies' hats are. I forgot that.

462 Q. Ladies' hats and bonnets are trimmed with jet trimmings?

A. Yes, sir.

Q. Did you ever hear of cotton braid?

A. Yes, sir.

Q. Did you ever hear of any braids being used as trimmings for men's hats?

A. No, sir.

Q. Or women's hats and bonnets?

A. I have known of women's hats to be made out of cotton braid.

Q. And to be trimmed with cotton braids, too?

A. I should think not.

Q. Are all those articles that you have just mentioned staple commodities of the millinery trade?

A. No.

Q. They are not?

A. They are sold in the millinery trade.

Q. What particular article is not a staple commodity in the millinery trade?

A. I could not tell you.

Q. In your official capacity do you classify ribbons?

A. No, sir; to some extent, but not as a general thing. It is not in my department.

Q. Do you know how ribbons are classified?

A. Classified at 50 per cent.

Q. All ribbons?

A. All ribbons that I have seen here.

463 Q. All ribbons are classified at 50 per cent.?

A. I do not know whether hat trimmings or not. I think not, under the late decision of the Department. I think they are all 50 per cent.; but under instructions from the Department, I think hat trimmings—that is, hat bindings and bandings—have come into the low duty as well as cotton galloons.

Q. You mean the trimmings for men's hats?

A. Yes, sir.

Q. The trimmings for women's hats are classified at 50 per cent.?

A. As far as I know; I do not know surely, because they do not go through my division; but that is my impression.

Q. You said that you had dealt in the millinery trade for a great many years?

A. Yes, sir.

Q. You said you had dealt in silk plushes?

A. Yes, sir.

Q. And in hat ribbons?

A. Yes, sir.

Q. Bindings?

A. Yes, sir.

Q. Please describe what you referred to as the hat ribbons that you dealt in.

A. Such as on that felt hat—black hat (referring to man's hat)—
464 those kind of ribbons and that kind of bindings, narrow and the same width as that.

Q. You dealt in the class of goods represented by these ribbons around the body of that hat?

A. Yes, sir.

Q. In this binding, and around the rim of the hat?

A. Yes, sir; narrower than that, as well as that width.

Q. All the various widths?

A. Yes, sir.

Q. Running from an eighth of an inch to 3 inches?

A. Well, perhaps from three-eighths of an inch to 2 or 3 inches.

Q. Were such ribbons made of all materials?

A. What were imported were all silk, or all silk and cotton.

Q. I mean those you dealt in during your 30 years' experience in the hat trade?

A. I say they were silk, and silk and cotton.

Q. Various qualities?

A. Various qualities.

Q. Various colors?

A. No, sir; only black for men's hats.

Q. You have seen other colors, too?

A. Yes, sir; I have seen them on hats.

Q. On straw hats?

A. Yes, sir.

Q. And that has always been the fashion, more or less?

465 A. What has?

Q. It has always been the custom, more or less, to have a great variety of colors; that is so, is it not?

A. Yes, sir.

Q. Have you stated all the articles that you dealt in while you were in the millinery trade?

A. No, sir.

Q. Can you mention any more?

A. We sold a large quantity of brandies and champagne wines. My house was a French house, and goods were consigned to us. My specialty was straw goods, but I was in receipt from the other side of almost every variety of goods, wines, brandies, and almost all European goods, silk handkerchiefs, silk plushes—those were incidental parts of my business. My business was straw goods sold to millinery people and hat dealers.

Q. Did you buy the ribbons you used to sell for men's hats at wholesale?

A. Bought at wholesale and sold at wholesale.

Q. On the hats and of the hats, both?

A. We did not have any hats; we did not sell hats.

Q. You did not put them on the hats?

A. We had nothing to do with the manufacturing.

Q. Did you buy them in this country?

466 A. No, sir; they are all imported.

Q. You dealt in the foreign articles?

A. Yes, sir.

Q. You sold them to hatters?

A. We sold them to hatters and commission merchants, those who supplied the hatters.

Q. Did that enable you to arrive at some familiarity with the goods that were used for hatters' trimmings?

A. Yes, sir; the very fact that I was dealing in them; it did.

Q. Please state some of the commodities which were staple articles for use as hatters' trimmings for men's hats?

A. Straw hats——

Q. Trimmings; hatters' trimmings for men's hats.

A. Nothing but binding and bandings, as you see there.

Q. Those were the only ones you know about?

A. Those; we did not deal with millinery houses.

Q. You dealt with hatters?

A. Yes, sir.

Q. Did you deal in hat cords?

A. No, sir.

Q. Hat ribbons, they were?

A. Hat bindings and bandings is what we dealt in with the men's hats.

Q. Did you ever deal in fancy ribbons?

A. Yes, sir.

Q. Fancy bonnet ribbons?

467 A. It was not our regular business. We used to have them.

Q. You had to serve the millinery trade?

A. Sold to the millinery trade.

Q. To the people who trimmed hats?

A. No, sir.

Q. To the people who trimmed bonnets?

A. No, sir; people who sold them to those who did. We were the importing house and we sold to the jobbers.

Q. Please look at Wanamaker's samples and say whether in respect to the general texture of the fabric there is anything new in that article?

A. I am not sufficient of an expert to know about the texture of these things. I merely know we imported ribbons of this class and style of goods; sold them. The texture or fineness I could not say. We sold them at so much.

Q. Goods of substantial texture, like these?

A. Yes, sir.

Q. You are familiar?

A. As far as I am capable of judging, not being an expert in these goods, they had all outward appearance of being the same as these. They were all French ribbons.

Q. Are you able to say from any commercial experience what-

468 ever, during the last 5 years, what the chief use of these Wanamaker ribbons have been?

A. Not from my own knowledge, except what I see in the streets, and on ladies' bonnets and dresses. That is all I know about those goods now.

Q. I show you Exhibit 355 and ask you if that has a specific name as an article of commerce?

A. Let me understand what you mean by a commercial name?

Q. I did not say anything about commercial name. Has it a specific name as an article of commerce?

A. Yes.

Q. What is it?

A. Straw trimmings and ornaments.

Q. Can you state whether it has a specific singular name; you have given a plural. Has it a single name to describe that particular article?

A. Ornaments, or straw ornaments; either one you have a mind to call it.

Q. In the absence of that particular article, is there any way by which you can describe it to a customer?

A. Anybody that knows anything about the trade I could most undoubtedly, who has a use for those articles. I do not suppose I could explain it to you, as well as any other gentleman here. They have to show something about the use of them.

469 Q. It would require some explanation, would it not?

A. Yes, sir.

Q. Is there any particular name that would at once identify this specific article as it is distinguished from any other straw trimmings?

A. As straw ornaments—as a species of straw ornaments.

Q. It would be a species of straw ornaments?

A. Yes, sir.

Q. In order to describe this particular straw ornament there would have to be some specification in the description?

A. Would have to show it.

Q. If you did not show it, is there any particular name that would describe this particular article apart from any other straw trimming?

A. No, sir; straw ornament.

Q. Is that made of anything else but straw?

A. Nothing but straw.

Q. Is it made in imitation of an artificial bud or flower?

A. I hardly know what it is made in imitation of. I know what it is used for. It is an ornament. That is all I can call it.

Q. What is it used for?

A. It is an ornament to put on boys' hats, child's hats, or ladies'

470 hats, and mixed in with artificial flowers or ribbons, or whatever they want to use it for.

Q. Is that particular article a very old article in the trade?

A. Yes, sir; you can go back 40 years on that.

Q. Has any been imported, to your knowledge, lately?

A. Yes, sir.

Q. How lately?

A. Last season there were quite a number of those trimmings.

Q. Where did this sample come from?

A. It came from Wholon, Switzerland.

Q. How do you know?

A. I know it was sent from there. I got it from the store of my sons, who are in my business.

Q. When?

A. Saturday, after I left here Friday. I got all those samples there.

Q. The chief use of this is for trimmings or bonnets?

A. Yes, sir.

Q. Tell the jury whether more of those articles have been used for 10 years for trimming hats and bonnets than ribbons.

A. I can not tell, of my own knowledge, but I should say that 10 pieces of ribbons would be used where there is one bunch of that, as far as I can tell.

471 JOHN CADWALADER, recalled.

By the DISTRICT ATTORNEY:

Q. The correspondence that was called for is in court, is it not?

A. Yes, sir.

The DISTRICT ATTORNEY. The collector is here. There was a vague call made upon him by the counsel on the other side. I think it is proper at this time, while I am free to say I do not think it is material, to object to the production and offer in evidence of the correspondence between public officers in regard to the business that is entrusted to them. I think it is in the nature of a privileged communication. I do not want to be understood in taking that position as retreating from the questions that have been raised by my friends.

By Mr. TREMAIN:

Q. We understand your cross-examination was suspended in order that you might produce any communications in writing that may have come to you from Col. Baker, the appraiser, respecting Mr. Wanamaker's invoices in question in this suit. Have you produced any such letters?

The COURT. Touching the re-appraisement?

472 Mr. TREMAIN. Touching a re-appraisement; yes, sir. Have you produced any such letters?

A. No re-appraisement. I have a letter in my possession which was received from Mr. Baker on the subject; that is on the corner of the table there.

Q. Received about the time of its date?

A. On the day of its date, I have no doubt.

Q. Are there any other letters from Col. Baker affecting those particular invoices at or about that time?

A. No; I think not.

Q. Did that letter which you produce accompany the invoices when they came to you from Col. Baker?

A. I presume they did, if I had sent them down to him again. I do not know whether I sent them to him or not. It was merely a matter of my convenience.

Q. This letter that you produced, was it or was it not in response to a prior letter from you to Col. Baker, the appraiser?

A. In sending invoices——

Q. Please answer yes or no.

A. These are communications transmitting invoices to Col. Baker.

Q. Preceding this?

A. No doubt.

Q. And this is in response to that communication?

473 A. Yes, sir.

Q. Have you the date of your letter to Col. Baker, the appraiser?

A. I can find it.

Q. Please state the date.

A. (Referring to letter-press book). It is either my letter, or signed by my special deputy. It was on or about May 22nd, 1888.

Q. Was your communication in consequence of the order of the Secretary of the Treasury dated April 25th, 1888.

A. In consequence of the letter of the Secretary of the Treasury we sent a report to the appraiser of all the invoices on all this general subject.

Q. Was that in consequence of the letter of the Secretary of April 25th, 1888?

A. It was probably not entirely in consequence. We would do that. The Secretary of the Treasury does not bind my action. It was probably in consequence of his letter.

Q. It was in consequence of the general order of the Secretary of April 25th, 1888, was it not?

A. That is misleading. I do not want to answer the question in that way. It misleads as to the effect and purpose of this communication. The Secretary of the Treasury's letter to me is for specific purpose, as I
474 understand. I will act upon it in such cases as come properly within its provisions and will not in such as do not. It is a matter of my discretion. His instructions to me are not obligatory. They are advisory.

Q. Was it or not in consequence of that letter of April 25th, 1888, that you communicated and sent these invoices to Appraiser Baker?

A. Yes, sir.

Mr. TREMAIN. I offer this response that Mr. Cadwalader received, dated May 24th, 1888.

The DISTRICT ATTORNEY. I object, because these communications between the officers are privileged.

(Objection overruled. Exception by the District Attorney.)

The COURT. They have none of the confidential character of the communication from client to his attorney.

(Letter read, as follows:)

PORT OF PHILADELPHIA, PENNSYLVANIA,
Treasury Office, May 24th, 1888.

JOHN CADWALADER,
Collector:

DEAR SIR: In reply to your communication of the 22nd instant,
475 which incloses report on seven invoices of Mr. John Wanamaker covering a number of importations of merchandise claimed to be hat trimmings, I beg to say that attached to each of these invoices you will find a note describing the articles that are commercially known as hat trimmings, chiefly used in ornamenting hats, bonnets, and hoods, and which are, under Department instruction of 25th ulto., entitled to classification at 20 per centum ad valorem:

W. H., 10744 D. Indiana, 5th September, 1887. W. H., 11,401 A. British King, 19th September, 1887. C., 2,039 A. Lord Clive, 11th March, 1887. C., 33,347 A. British Prince, 22nd March, 1887. C., 23,623 A. British Prince, 24th March, 1887. C., 10,781, Allah 3d, September, 1887. C. 12,040. British Prince, October 3d, 1887.

Herewith please find invoices and protests.

Very respectfully,

J. B. BAKER,
Appraiser.

By Mr. TREMAIN:

Q. After the receipt of this letter which has just been read, did you personally at any time give any instructions whatever respecting the invoices mentioned?

A. I directed the liquidating clerks not to liquidate it.

476 Q. About what date did you give that direction?

A. On or about this time I stopped all these liquidations in hat trimmings.

Mr. TREMAIN. I move that to be stricken out. I am asking specifically.

The WITNESS. I presume about that time the letter came it was not acted upon. I do not remember the date.

Q. I understood it was acted upon. You gave the personal direction?

A. It was not required. I have to do the thing.

Q. I am asking you whether you did personally give any direction whatever in respect to the invoices indicated in that letter?

A. There is nobody to direct but myself.

Q. Did you after the receipt of this letter give any directions whatever respecting the invoices it mentioned?

A. I did not liquidate the duties under that letter myself nor did any person under me.

Q. Did you give directions not to liquidate it?

A. It did not require it. I had to give directions to do it.

The COURT. I thought you said you directed the clerk not to liquidate them?

477 A. There was a general understanding. It was not necessary. No liquidations were made.

Q. You said a minute ago you did direct the clerk?

A. I do not want to be specific as to this particular one. Liquidations are not made unless they are ordered to be made by the collector.

By Mr. TREMAIN:

Q. Did you give any directions whatever after the receipt of this letter, May 24th, respecting the particular invoices that letter mentions?

A. My recollection is very distinct of stopping all liquidations, and this among them, at that time.

Q. That was during the month of May, was it?

A. Yes, sir.

Q. About the date of that letter?

A. Yes, sir.

Q. To whom did you give those directions?

A. They would be issued generally to the department; they would apply to the liquidating clerks.

Q. Was it in writing?

A. Probably not.

Q. To whom did you give those directions?

A. The liquidating clerks, whoever they were.

Q. Designate them by name.

A. There were four of them. I do not know whether it would be Mr. Schuyler, Mr. Edmunds, Mr. Siddell, and I forget the others—the

478 liquidating department.

Q. Prior to the direction which you say you gave to those liquidating clerks, were you called on by the Secretary of the Treasury, or by any other officer respecting that subject?

A. Do you mean personally called upon me?

Q. Yes.

A. Personal visit?

Q. Yes

A. I do not recall any personal visit; no, sir.

Q. Did you have any communication to you in person or in writing respecting these invoices or invoices in which those would be classed at or about the time of the date of that letter, May 24th?

A. I think there was a letter from the Department on this subject calling attention to the stopping of these liquidations. I had taken that action myself prior.

Q. Prior to receiving any letter from the Department you had yourself directed that this reliquidation should not progress. Is that the fact? If you can, answer yes or no.

A. I cannot answer categorically as to that. I will have to explain the answer.

Q. You cannot answer that yes or not?

A. No, sir.

Q. I will ask you another one. Will you state whether prior to the receipt of that communication from the Secretary of the Treasury
479 upon this subject you were called upon by any officer of the Government other than Col. Baker?

A. I have no recollection.

Q. Will you tell this court and jury at whose request, if by anybody's request, you suspended the reliquidation of those entries?

A. The Department generally directed their suspension.

Q. In May, 1888; is that the date?

A. It was about that time. I couldn't tell you the exact date. It may have been a little later that I had the communication with them. But from the date of these liquidations great attention was paid to them, and they were scrutinized with great care——

Mr. TREMAIN. We stop the witness.

The DISTRICT ATTORNEY. Why not let the collector tell the exact fact?

Mr. TREMAIN. We are asking for specific answers.

The WITNESS. I would like to state the whole transaction. There is nothing mysterious about it.

The COURT. He asked you whether you had yourself directed this liquidation should not be made?

A. I would like to state the history of the transaction, and then make intelligible my answers. There is no desire to be evasive
480 about it.

Mr. TREMAIN. What I wish to know is this, and I will submit my question to any form which the court thinks proper. What we wish to know is, whether prior to the time the collector received the letter which he says he did receive from the Secretary of the Treasury, which he says was received after he had directed that this reliquidation be suspended—whether prior to that time his action in giving that direction to suspend the reliquidation was by reason of a request made upon him by anybody, and if so, by whom?

The WITNESS. As these reports came to me from Col. Baker, I suspended a great many of them. I did not agree with him at all, and his advice to me was merely advisory and I was not obliged to liquidate, and I was suspending a great number of them, and while they were under suspension, a letter came from the Department directing their suspension.

Q. Prior to the receipt of that letter from the Secretary of the Treasury, and prior to your suspending the reliquidation, had you been requested by anybody to take that action?

481 A. I do not recollect any person making that request of me.

Q. Do you testify that nobody made that request of you?

A. I have no recollection. There was no reason for anybody to do it.

Q. You have no recollection of anybody calling upon you on the subject?

A. I have not. If you will indicate anybody I may recall it.

Q. I want your statement of facts.

A. I have no recollection of it. It may have occurred.

Q. Will you produce that letter that you spoke of from the Secretary of the Treasury?

A. That is not a Department letter. I do not know whether I should produce it or not. I suppose there is one at the office.

Q. Have you got it here?

A. No, sir.

Q. Would you recognize it if you saw a copy of it?

A. Yes, sir; I think so. I am sure I would.

Q. Is it not the fact that the letter 8803, April 25th, is not the letter you refer to?

A. That is not the letter.

Q. The other one was a short letter, was it not?

A. Not very, I think.

Q. Will you please produce it?

A. 8803 is the general letter. If you have a copy I can identify
482 it. I can give you its general purport. I do not know as I can produce the original myself. I do not know that I have it.

Mr. TREMAIN. We call for the original letter.

Redirect-examination by the DISTRICT ATTORNEY:

Q. Have you stated in relation to that particular transaction about the receipt of the letter from Col. Baker all the action upon it—all that you know?

A. There seems to be a misapprehension as to the effect of the letter from Col. Baker; I would like to state that.

Q. State the fact; the transaction and the circumstances.

A. The liquidation follows my action upon the report of the appraiser. He sends a report back to me directly, and if satisfactory to me, that goes to the liquidating department, and liquidations follow. If not, I direct the liquidation according to my view of the true classification of the article. It is a matter of daily occurrence to disregard the appraiser's classification. It is of frequent occurence. It is considered advisory. Of course, in the general course of business, it is usual to follow, but
483 where there is any grave doubt about a question investigated with great care that is merely looked upon as a question of evidence.

Q. As I understand you, there was no official action taken based upon the recommendation contained in Col. Baker's letter to you of May 24th?

A. In the way of reliquidating?

Q. Yes.

A. No; certainly not; they remained as they were originally assessed.

By the COURT:

Q. I thought I understood you to say that you directed no reliquidation?

A. I say there was no reliquidation upon them. They remained as they were assessed.

The COURT. Mr. Cadwalader might be misunderstood, because he did, according to his own statement, take official action on it, and direct it not to be made.

The WITNESS. I only answered that, because as a matter between me and my clerk I do, but the clerk's action is my action, and there was no direction necessary on that.

By Mr. TREMAIN:

Q. You do not mean to change your testimony, do you?

A. With that explanation, that the clerk was instructed not to make the reliquidation—was instructed to direct it not to be done, so it would not go on without my knowledge.

484 Q. Is it not the fact that, at or about the time of the receipt of this letter, in May, 1888, sometime, you assessed goods similar at 20 per cent.?

A. It might have been done; I don't know.

Q. Do you know, as a fact, that that was done?

A. No, sir; I do not know it as a fact.

Q. Do you not know that you signed personal checks, or directed or had the payment of checks, made under your supervision, for the refund on goods.

The DISTRICT ATTORNEY. I object to that as not material.

(Question withdrawn.)

By Mr. TREMAIN:

Q. I understood it was in consequence of some opinion or investigation of yours that you gave the directions to suspend the reliquidation in accordance with this letter of May 24th, 1888? Is that the fact?

A. There was no suspension. The reliquidation was not going on. I can not make that intelligible. There was no reliquidation in the matter. We were advised by the appraiser of his opinion, and nothing further was done about it. I did not approve it. There was no suspension; it

485 simply did not call for it, and there was no reliquidation in that case.

Q. For some reason you stopped the business, did you not?

A. For the simple reason I did not agree to it. I might have agreed on the same date and twenty others, might have reliquidated twenty others, and not that.

Q. I show you, among those of the Wanamaker importations in question by the British Princess, invoice No. 3623, and entry, and I call your attention to the invoice where it reads: "On the case 1193, for millinery purposes, 6 pieces of fancy ribbons," and in red ink by the

appraiser, "silk ribbons 50 per cent.," and to the entry opposite that case showing the calculation of duty upon them at the rate of 50 per cent.; and I ask you if the original duty was not assessed at 50 per cent.?

A. Yes, sir.

Q. Will you please state under what order, if any, of the Secretary of the Treasury that original duty of 50 per cent. was assessed?

A. None. I do not know of any order. There is no order of the Secretary of the Treasury directing me to assess particular duties except in a particular case that now has been investigated. He does not direct me to assess; he gives me general directions, which I would follow of course.

486 Q. Do you understand the question I ask you?

A. I understand you to ask me under what special direction of the Secretary or designation this particular article was assessed at 50 per cent I never received such an instruction of that sort since I have been in the office.

Q. Will you please state what instruction of a general character, if any, designating them by number or date, that specific assessment at 50 per cent. was made by you?

A. I do not know anything peculiar about it at all. It was assessed under the classification of the tariff act. If it is a specific case under protest, it may have been. I do not know that. I know of no direction or special instruction.

Q. Do I understand you to say that this assessment of 50 per cent. in this case is not in consequence of any general direction of the Secretary of the Treasury which includes it?

A. There may be a decision of the Secretary of the Treasury which would govern our judgment; yes, sir.

Q. Is there?

A. I do not know. I could tell if you have it there; I do not recall it at this moment.

Q. Can you tell the date?

A. Treasury decision do you mean?

487 Q. Yes.

A. I couldn't tell you unless I referred to it.

Q. Will you please state to this court under what decision of a general character, or otherwise, your particular assessment at 50 per cent. of this class of goods is directed, and if you can not answer that question, please say you can not?

A. I do not know under any particular direction. I can't answer.

Q. Is it under any general decision at all? If so, what?

A. General or particular; I presume it is under the classification of the tariff act.

Q. Is it under any general decision of the Secretary of the Treasury?

By the COURT:

Q. Was it in the exercise of your judgment as collector, or in pursuance of any instructions or order made by the Treasury Department?

A. I understand there are 9,000 decisions of the Secretary of the Treasury governing our general judgment in classifying duties. There may be one on this.

Q. In this case?

A. I know nothing special on this particular case.

488 By Mr. TREMAIN:

Q. You know of no general decision applicable to this particular case; is that the fact?

A. I do not recollect them at this moment. I have said there are 20.

Q. Will you point out *to* any one?

A. I am not a digest; I can not do that.

Q. If you can not answer, I will let it go that way?

A. No, sir; I can not answer specifically.

489 Continuation of examination of HENRY C. SOUTHWORTH.

By the DISTRICT ATTORNEY:

Q. State whether at the time of the passage of the act of March 3rd, 1883, and prior thereto from 1862, there was not a class of commodities commercially known as trimmings used for the making and ornamenting of hats?

A. There was.

Q. What were embraced in that class?

A. Braid, plaits, laces composed of straw, and hair trimmings; straw trimmings, hair trimmings, trimmings made in imitation of straw, made of cotton; ornaments of straw also; goods that generally were made and produced in a certain district in Switzerland.

Q. State whether, within that period and within the range of your experience as a dealer in the various classes of goods, silk ribbons were included in that commercial designation?

(Objected to as immaterial and irrelevant.)

Mr. TREMAIN. The only purpose of ribbons is for trimmings. It is for the court to say what are trimmings.

(Objection overruled. Exception by Mr. Tremaine.)

490 A. They were not.

Q. Will you please look at those different articles to be handed to you, and state whether they are the articles embraced within that definition?

(Objected to.)

The COURT. The witness has stated the articles embraced in that definition.

The DISTRICT ATTORNEY. I want him to indicate the articles that are shown him, so that the jury will understand what he means. They are entitled to look at the articles themselves.

The COURT. I do not think there is any ambiguity about it.

The DISTRICT ATTORNEY. He is called to testify on the same point Mr. Rowe was, and I think it is proper the jury should see what are known as trimmings since 1862 down to 1883.

The COURT. All the jury will have to do will be to say whether the ribbons are in the category or not. It does not make much difference.

(Objection overruled. Exception by Mr. Tremaine.)

(Samples handed witness.)

491 A. (Examining carte No. 4.) These I think, without exception, are known, and were known at that time, and have been known, as far as my knowledge extends, from 1845, as straw trimmings. This article

(Exhibit 335) is known as straw trimmings specifically, or exactly, or correctly, as you might term straw ornaments. (Exhibit 356), those are straw braids. (Referring to Exhibit 357), there is an article distinctively a straw trimming, though it is not made of straw. (Referring to Exhibit 7144), these are laces. (Referring to Exhibit G. H. D.), these are braids. I think I would have to refresh my memory somewhat by reference to the language of that 448. I simply wish to refresh my memory. (Referring to Exhibit 349), that is willow sheets. (Referring to Exhibit 358), these are tissues. (Referring to Exhibit 8491), these are trimmings. (Referring to Exhibit 354), I should call those under the general head of trimmings. Some I should call laces. (Referring to carte No. 12), those are decidedly laces.

By the COURT:

Q. That is what you are asked about; what would you call them?

A. Commercially known as such. N, B, and C, in carte 12, are commercially known as straw laces; made of straw, made of cotton, and made of horse-hair.

492 By the DISTRICT ATTORNEY:

Q. You are familiar with the articles of which Wanamaker's samples are species?

A. Yes, sir.

Q. Silk goods of that variety?

A. Yes, sir.

Q. What has been their commercial designation as long as you can remember?

A. Since 1845 they have been commercially known as ribbons.

Q. Known in any other way?

A. I think there is an exception here in one case. There is pattern 313; its is sometimes commercially known as galloon; I do not know its use.

By the COURT:

Q. These things that were shown you last appertain to the millinery trade, do they not?

A. Decidedly so; yes, sir.

Q. How have they been known?

A. As straw trimmings.

Q. Which, the ribbons?

A. Oh, the lace articles.

Q. Are they called trimmings?

A. They are not designated generally as trimmings.

Q. Suppose millinery people do not generally call them that. Are they so or not?

A. So far as my education is concerned in the millinery trade they are called trimmings.

493 Cross-examination by Mr. TREMAIN:

Q. Is galloon a trimming?

A. Not commercially.

Q. Do not argue with me; state the fact whether a galloon is a trimming?

A. A galloon is a trimming; yes, sir.
Q. Are laces trimmings?
A. Laces are trimmings also.
Q. Are there tissues which are trimmings?
A. No, sir.
Q. There are no tissues which are trimmings?
A. Yes, sir; there are some tissues which are trimmings.
Q. Did I understand that you had been in the millinery trade?
A. Since 1845 up to 1878, about.
Q. What class of goods did you deal in?
A. All kinds of millinery goods appertaining to the millinery trade.
Q. Staple commodity appertaining to the millinery trade did you deal in? What staple commodity did you deal in, anyhow?
A. Am I privileged to ask you a question before I answer that?
Q. Is it quite necessary you should before you can tell me what staple commodity you dealt in?
A. Yes, sir.
Q. Did you deal in any materials for making and trimming or ornamenting hats, bonnets, or hoods?
494 A. Did I ever, do you mean?
Q. Yes. Tell the jury what staple commodities you did deal in?
A. So far as my experience is concerned as in the business, the sum total of the commodities I dealt in, I should think, might have been determined under the general head of silk goods.
Q. You did deal in silk goods?
A. Yes, sir.
Q. State what silk goods you did deal in.
A. Velvets, satins, silks, plushes, ribbons, tissues, ruching, laces—laces made of silk, sometimes made of cotton, sometime' made of wool—straw braids, straw trimmings, flowers, feathers, ornaments of various kinds—made of metal, made of straw, made of various materials—buckram, crown lining.
Q. Any others?
A. Manufactured straw goods in all forms and shapes.
Q. Anything else?
A. We dealt largely, sometimes according to the season—that is, largely in number, not in value—in what we call plaster blocks—blocks made of plaster paris.
Q. That was for making hats and bonnets?
A. For forming and shaping hats and bonnets.
Q. What else?
I do not call to mind anything else at present.
495 Q. Hat bodies?
A. We dealt in the hat bodies that were made of buckram. I mentioned that article.
Q. They are sometimes made of other materials?
A. May be your friend can refresh my memory; he mentioned the article a moment ago; Mr. Pritchard mentioned the article a moment ago.
Mr. PRITCHARD. I do not recollect doing it.
The WITNESS. It is bobbinet.

By Mr. TREMAIN:

Q. Is that a trimming?

A. It is not a trimming.

Q. Is that for the making of the hat?

A. Making the body of the hat—lining the hat.

Q. All those articles you have mentioned are hat materials in some form, are they not? You have mentioned hat materials thus far of various kinds?

A. Hats and bonnets.

Q. Hat and bonnet and hood materials?

A. Yes, sir.

Q. They are all hat and bonnet and hood materials?

A. Certainly; there is no denying that.

Q. They are staple commodities in that industry. Are all the commodities which you have mentioned staple commodities?

496 A. They are not staple. That is, if you mean fashionable.

Q. I do not mean fashionable; they are all commodities that are dea't in?

A. Sometimes. Some seasons one article may be used, and other seasons there may be another article.

Q. They are well known articles?

A. They are articles known to the trade.

Q. Are they staple commodities that are used for trimmings and ornamenting hats, bonnets, and hoods?

A. I can not say that there is any one article that is staple.

Q. But there is a large class of articles that is commercially used for that purpose, is there not?

A. I do not know that term "commercially used."

Q. Is it a fact that there are a large number of commodities which are applied to trimming hats, bonnets, and hoods?

A. Oh, yes.

Q. That is a fact?

A. Oh, yes.

Q. That has always been so in your commercial experience?

A. Oh, yes, sir.

Q. Is it the fact that sometimes they are the same, and sometimes they are different commodities from those which are used in making, as

497 distinguished from the trimming of hats, bonnets, and hoods, or are the same materials used for both?

A. The same material may be used for a trimming, and then again it may be used for making the body of a hat.

Q. This line of industry as compared as it relates to women's gear, is it or not distinguished in commerce by the term "millinery?"

A. I think not.

Q. Does millinery distinguish women's gear from men's gear?

A. Oh, no, sir; women's gear includes a good deal besides bonnets; you mean head gear?

Q. Yes. It does distinguish those, does it not? What does millinery mean?

A. It means articles that are used for the adornment of women's, men's and children's heads, as I understand it. Not men's, excuse me, I will correct that.

Q. Are you familiar with the commodities that are used to make and trim men's hats?

A. I think I am.

Q. What are some of the commodities that are used to trim men's hats?

A. They are hat-bands which go around the hat. Go around the edge. There are what we call sweats, composed of leather or some other material, which go on the inside of the hat. There are linings, which
498 go on the inside of the hat—which are put on the inside of the hat—and they are composed of silk; composed of satin and sometimes of paper. Sometimes paper, covered with a thin gauze or tissue made of silk, or cotton, as the case may be.

Q. What else?

A. I do not think of anything else at the moment.

Q. Are there sometimes ribbons or laces, or tissues put inside?

A. Of men's hats?

Q. Yes; or children's hats.

A. That is a question which I cannot answer distinctly, when you couple men and children.

Q. Take men's hats, now; do they put ribbons or laces in men's hats in any way?

A. Sometimes young men take a piece of ribbon about 6 inches long and have the one that they love best, or the one that loves them best, rather, ornament it and put it in the top of the hat.

Q. That is an exceptional trimming?

A. Yes sir.

Q. I speak of the staple trimmings.

A. Not ribbons; they do not use ribbons.

Q. What do they call that little thing some hats have on them; is that lace or ribbon, tied to the sweat-band [handing man's hat to witness]?

499 A. I should call that braid.

Q. Is that a staple article in hatter's use?

A. It is not always used for that purpose.

Q. Is it a staple article in hatter's use?

A. To the best of my knowledge and belief, I think it is.

Q. In a variety of forms and colors, is it not?

A. Not in forms, but in colors.

Q. Look at that [handing another man's hat to witness]; does that illustrate the same braid?

A. That undoubtedly is a ribbon.

Q. That is an inside trimming, is it?

A. Yes, sir.

Q. Is that made of cotton or silk—which or both?

A. I should think it was silk and cotton, or raw silk. I do not wish to destroy the article, or else I could pull it apart, and tell you definitely. It is either silk, or silk and cotton.

Q. Did you, as a merchant, deal in trimmings for men's hats?

A. Not in the period that I mentioned from 1845 to 1878.

Q. At any period?

A. I have dealt in them; yes, sir.

500 Q. Have you, as a merchant, dealt in materials for trimming bonnets and hats?

A. Not distinctly for boys' hats.

Q. Is the trimming represented in the hat now shown you a common use of articles of that character [showing three straw hats to witness]; is that a common use of ribbons on boys' hats as represented by those samples?

A. I do not think those are boys' hats, myself.

Q. Is that a common use of those ribbons, on those hats?

A. I think it is not a common use. I think it is an exceptional use.

Q. Is it in extensive use at all?

A. I think not.

Q. Is it a use to which ribbons are applied?

A. If I am to judge by those samples, I should say yes.

Q. Speaking of a straw hat, as a matter of fact, what is a straw hat used by a man or a boy, or any one, generally trimmed with?

A. If you include those three classes, I should say, generally, it is trimmed with that what are commercially known as hat-bands.

Q. You know a hat-band when you see it?

A. Well, I think I do.

Q. They come in various colors, do they not?

A. A variety of colors.

501 Q. A variety of qualities?

A. Yes, sir.

Q. A variety of styles?

A. Not such a variety of styles; no, sir.

Q. A variety of materials?

A. No, sir.

Q. What are the general materials?

A. Composed of silk and cotton, or silk.

Q. As commodities, do they come in rolls or cards?

A. As commodities, they are rolled.

Q. How many yards to a roll?

A. Ordinary hat-bands are 18 yards.

Q. Are those such articles (referring to Exhibits "A" and "B")?

A. Excuse me; are those the same exhibits that were shown yesterday?

Q. You are an expert. I only ask if those are such articles as you referred to in your testimony; that is all I ask from you?

A. I will answer your question.

Q. Are those the same articles that you referred to in your testimony just now, or do they represent that class?

A. Exhibit "B" does. Let me see Exhibit "B." (After further examination) Exhibit "B" does.

Q. What do you say about Exhibit "A?"

A. Well, Exhibit "A" is questionable.

502 Q. Do you know a hat ribbon when you see it?

A. A hat ribbon? No; I do not know a hat ribbon when I see it.

Q. Can you tell when you see a ribbon whether its chief use is to trim hats with or not?

A. Oh, I do not pretend any such thing. Philadelphia people do.

Q. Do you pass such goods as Exhibit A in your official capacity in New York under any classification whatever?

A. As far as I can recollect, I do not think I have passed any goods like those.

Q. Do you know that such gooods are classified at 20 per cent.; do you not know that fact?

A. I do not know that fact from any information that is before me now. I might refresh my memory, and then I can tell you.

Q. Let me refresh your memory. Do you know of a collection of samples under Government supervision representing ribbons that are exclusively used for trimming hats and bonnets?

A. I do not know in the form of your question.

Q. Do you know of any book of samples purporting to represent ribbons exclusively used for hats, bonnets, and hoods?

A. Not as ribbons.

503 Q. Do you know of any book of samples purporting to contain any kind of materials exclusively used for hats, bonnets, or hoods?

A. Now you are right; I do.

Q. Having thus refreshed your recollection, are you not able to say that Exhibit A corresponds with the samples in that book?

A. I can not say. I can not testify here whether this "A" is in that collection or the book you refer to.

Q. Can you not testify, from your general knowledge of these commodities, whether or not that article corresponds with the class in that book?

A. I can not answer that question in that form.

(Mr. Cadwalader produced letter called for by Mr. Tremaine.)

At one o'clock the court took a recess until two o'clock.

504 AFTERNOON SESSION—2 P. M.

Cross-examination continued. HENRY C. SOUTHWORTH.

By Mr. TREMAIN:

Q. Just at recess we understood you to say that there were collections of samples prepared under the Government direction representing goods that were used to trim hats, bonnets, and hoods; was there, representing classes of those goods?

A. Representing the goods that we understood generally to apply to the millinery trade, making and ornamenting hats, bonnets, and hoods, and all that sort of thing.

Q. In the hatter trade, too?

A. Yes, sir.

Q. There was a collection of samples of that general character, made under the Government direction, was there not?

A. Yes, sir.

Q. Comprising a variety of commodities of various materials of silk, *and of silk*, and silk and cotton?

A. Yes, sir.

Q. Those samples represented a variety of commodities composed of various materials, such as silk, and silk and cotton?

A. Silk, and silk and cotton only.

505 Mr. TREMAIN. I asked the witness whether there was not a number of collections, prepared under the Government direction, of samples representing various goods applicable in hatters' and milliners' trade.

The WITNESS. My answer is, Composed of silk and silk and cotton; in one instance, I think, leather.

Q. There is such a collection that represents goods specially and exclusively adapted for hats, bonnets, and hoods, is there not?

A. There is a collection that was decided——

Q. No matter what it was decided; I am asking you about the existence of a collection of that character?

A. There is a collection of that character.

Q. And there is a collection, is there not, of goods of that material—silk and cotton—which are not specially adapted to making and ornamenting hats, bonnets, and hoods?

A. I do not know of any such collection.

Q. Do you not know of any such collection?

A. No, sir.

Q. Do you know of a collection of samples representing commodities which are composed of silk and cotton, which are not generally used

506 for making or ornamenting hats, bonnets, and hoods?

A. I know of a collection not chiefly used.

Q. You do know of a collection of samples representing commodities made of silk and cotton, prepared under Government direction, of goods not chiefly used for making and ornamenting hats, bonnets, and hoods; that is what you mean to say?

A. Not chiefly used for the ornamentation of hats, bonnets, and hoods; that is my answer.

Q. That is what you mean?

A. That is what I mean to say.

Q. There exists such a book of samples?

A. Yes, sir.

Q. Do you know that there exists a book of samples, prepared under Government direction, of commodities made of silk and cotton representing commodities that are chiefly used in making or ornamenting hats, bonnets, and hoods?

A. For ornamenting, not making.

Q. But there exists a collection of that character?

A. Yes, sir.

Q. That is two collections?

A. Two collections.

Q. Does there not exist still another collection, representing samples of commodities made of silk and of silk and cotton, representing commodities that are specially or exclusively adapted for ornamenting hats, bonnets, or hoods?

507 A. I do not know of any such collection; I only know of two. May I qualify that?

Q. Do you not *to* know of another collection of those materials?

A. No, sir; I do not know.

Q. Did you ever hear of a book of samples called book No. 1?

A. I have.

Q. Did you ever hear of a sample book called book No. 2?
A. There is a sample book called No. 2.
Q. Did you ever hear of a sample book called No. 3?
A. There is a sample book called No. 3.
Q. Did you ever hear of a sample book called No. 4?
A. There is one called No. 4.
Q. No. 5?
A. The same answer.
Q. No. 6?
A. The same answer.
Q. No. 7?
A. The same answer.
Q. All of those books cover commodities of those materials, silk, or silk and cotton, do they not?
A. And leather, I think; possibly paper.
Q. Possibly some other materials?
A. There are two materials; silk and cotton, and leather and paper.
Q. How many samples are there in each one?
A. I should roughly estimate somewheres in the neighborhood
508 of forty or fifty.
Q. Forty or fifty samples in books Nos. 1, 2, and 3?
A. In each book.
Q. Having thus refreshed your recollection, are you not able to say that books Nos. 1, 2, and 3 are the books that you have just specially described?
A. No, sir.
Q. 1, 2, and 4, are they?
A. From 2 to 7 inclusive are of one class, and 1 is of another.
Q. Does your commercial experience enable you to state whether or not there are any ribbons that are used for ornamenting hats, bonnets, or hoods?
A. I say no; I qualify that answer, though.
Q. Do you testify that there are ribbons that are used for ornamenting hats, bonnets, and hoods?
A. No; I do not testify anything of that kind.
Q. Are there any ribbons that are used for ornamenting hats, bonnets, and hoods?
A. There may be.
Q. Are there in fact any ribbons whatever that are used for ornamenting hats, bonnets, and hoods?
A. I should not be willing to identify such goods. I do not think I could, to the determination of the end of their existence, that they were intended for that purpose.
509 Q. Are there any ribbons whatever that are used for ornamenting hats, bonnets, or hoods?
A. I think there are.
Q. There are?
A. I think there are; yes, sir.
Q. Are there any ribbons that are specially adapted for use in trimming hats, bonnets, and hoods?
A. Under the general head of ribbons; no, sir; there are not.
Q. Is it your testimony that there are no ribbons specially adapted for use in trimming hats, bonnets, and hoods?

A. Not specially.

Q. There are not?

A. Not specially prepared; they may be.

Q. Do you know anything about it yourself?

A. I make some pretence in that direction.

Q. Do we understand your testimony then to this jury to be that there are no ribbons that are specially adapted for use in trimming hats, bonnets, and hoods?

A. In their construction I do not mean to testify that there are.

Q. You testify that there are such ribbons?

A. I testify that in their construction they are not specially manufactured; they are manufactured for general purposes.

Q. Is there any ribbon that is used for trimming hats, bonnets, and hoods?

510 A. Yes, sir; there may be ribbons.

Q. I am asking you for the fact; are there any that are used?

A. I could only answer that question by saying I could not say from any knowledge that I have by following up their history. If you ask my opinion, that is another thing.

Q. I want you to answer yes or no, if you can. Is there any ribbon that is used for trimming hats, bonnets, and hoods?

A. There are ribbons that can be used.

Q. Are they so used?

A. If I should answer that question from my best observation and belief and knowledge, so far as the evidence of my own sense is concerned, I should say, decidedly.

Q. Is one ribbon distinguished in the trade from another at any time because of its special adaptation to a particular use?

A. That depends upon the buyer, entirely.

Q. Is it not true that ribbons are one of the principal materials that are in fact used in ornamenting hats, bonnets, and hoods?

A. I should say no, if you take value into consideration.

By the COURT:

Q. That is not the question that was asked you.

511 The WITNESS. I was qualifying my answer.

By the COURT:

Q. He asked you whether ribbons are not things which are principally used?

Mr. TREMAIN. One of the principal materials which were used?

A. Please repeat that question.

Q. Is it or not true that ribbons are goods which are used in trimming hats, bonnets, and hoods?

A. It is not the principal commodity.

Q. It is not the principal commodity so used, is that your testimony?

A. It is not. May I be allowed to ask a question or qualify my answer?

Mr. TREMAINE. If I do not speak good English, you can ask me.

The WITNESS. I qualify my answer. My answer is this: That if we take the total value of the goods——

Q. I did not ask you anything about that; please pay heed to my ques-

tion. Is it not true that ribbons comprise one of the many prominent materials that are used in trimming hats, bonnets, or hoods?

A. It comprises one of the many; yes, sir.

Q. Do you know how to distinguish such ribbon when you see it?

512 A. I am not prepared to answer that question at present, if you please.

Q. Did you ever state that it was practicable for you to distinguish a ribbon from other ribbons which was specially adapted for millinery use?

A. I never stated that I could tell the difference.

Q. Can you not answer that question, yes or no?

A. No, sir; flatly no.

Q. You never said that?

A. No, sir.

Q. Did you ever state that in substance?

A. No, sir; not as a ribbon.

Q. Did you ever in substance state that it was practicable for you as an examiner to distinguish an article that was a millinery article from any other article of that class?

A. No, sir.

The DISTRICT ATTORNEY. If my friend intends to contradict this witness as to anything he has said that is material to this case he should lay the ground for the contradiction by calling his attention to the time and place.

Mr. TREMAIN. Were you present on an occasion before Appraiser McMullen at the port of New York, on or about the 1st of May, 1888, when Mr. Choate and myself were present?

513 A. I was there.

Q. Did anybody on that occasion ask you, in substance, whether you were able to distinguish a millinery ribbon from other ribbons of that character, or from other ribbons?

A. To the best of my recollection and belief I did not.

Q. Did you not state that it was practicable for you, as an examiner, to denote a line of ribbons somewhere that were specially adapted for use as millinery ribbons, so as to distinguish some such ribbon from all other ribbons?

A. To the best of my recollection and belief I did not.

Q. Did you say anything on that subject?

A. Most certainly I said something.

Q. Were you not asked that question in the presence of the appraiser?

A. To the best of my recollection and belief I think I was not.

Q. Were you not asked, in substance, that question?

A. To the best of my recollection and belief I was not.

Q. Were you not, in substance, asked that question at a conference of appraisers representing nine ports, or assistant appraisers, in July or August, 1888, in New York?

A. I think the records will show whether I was or not.

Q. I am asking for your recollection.

514 A. To my best recollection and belief I was not.

Q. Did you not on that occasion say that it was practicable for an examiner familiar with ribbons to distinguish some ribbons which were millinery ribbons from all other ribbons?

A. I do not think I made any such statement in that form.

Q. Did you make any such statement to that effect in any form?

A. I should have to refer you to the records, or allow me to refresh my recollection by reference to records made at that time, which are under the Government control, I suppose.

Q. Is that the best answer you can make of your own recollection and knowledge?

A. Under the circumstances, I say it is the best I can make at the present time.

Q. The circumstances are that you are a witness, and that you are testifying to the best of your recollection and knowledge.

A. Yes, sir.

Q. Is that the best answer you can make?

A. That is the best answer I can make to that question.

Q. As a matter of fact, are you able, as an examiner of ribbons, to distinguish ribbons that are specially adapted to the millinery trade from all other ribbons?

A. I never took any such position, and I do not take it to-day; no.

515 Q. You are not able to; is that your answer?

A. Not to determine a millinery ribbon—distinctively a millinery ribbon; no, sir.

Q. You are unable to distinguish from other ribbons a ribbon that may be manufactured, or that is an article used for the ornamentation of hats, bonnets, and hoods; is that your testimony?

A. No, sir; I do not take any such ground.

Q. Are you able, from your experience, to distinguish from other ribbons any ribbon that is specially adapted for use as a millinery article?

A. I am able to express an opinion about it.

Q. Are you able, in your own judgment, to distinguish such an article?

A. I am able to distinguish, in my own judgment and opinion. It may be used for that purpose.

Q. Are you able to distinguish, of your own judgment, an article that is specially adapted to that use?

A. That use and that only; no, sir; or no one else.

Q. And no one else?

A. No one else, in my judgment.

Q. Is it, then, your judgment that there is no class of ribbons that is specially adapted in commerce as commodities for that particular millinery use?

516 A. Specially and only; no, sir.

Q. Is it your judgment, and do you mean to testify that it is your opinion, that there are not ribbons which you are able to distinguish as specially adapted to millinery use?

A. They may be specially, if in the judgment of the purchaser or manufacturer he wishes to use them for it.

Q. Have you written any disquisitions on this subject?

A. I should have to get Webster on the stand to understand what that word means.

Q. Have you written anything upon the subject?

A. I have no recollection of writing anything on this subject to any one.

Q. Have you not prepared official reports?
A. Myself, personally?
Q. Yes, sir?
A. No, sir.
Q. Were you not asked about this subject by the appraiser of the port on or about the 17th of May, 1883?
A. I may have been asked; I think I was asked.
Q. Were you present on the occasion of the morning of the 17th of May, 1888, in the appraiser's office, with Mr. McMullen, the As-
517 sistant Secretary of the Treasury, Mr. Maynard, and others, when this subject was discussed?
A. No, sir; I never was at any interview when Secretary Maynard was at the office in New York; never.
Q. Did you see him on the 17th of May?
A. I do not know the gentleman from a perfect stranger if I should meet him on the street; I never saw the gentleman to know him.
Q. Were you not called into Mr. McMullen's office, and asked respecting the classification of ribbons for trimming hats, bonnets, and hoods, on or about the 17th of May?
A. I think I was, when you were present.
Q. That was not the 17th of May?
A. I do not know the exact date; no, sir.
Q. Were you not on another occasion, when I was not present?
A. No, sir; I think not; to my best recollection and belief I was not. I will explain here that you referred to the 17th of May; I have taken it for granted that it was not exactly the 17th of May, but on or about the 17th of May.
Q. I was asking you of an occasion of Assistant Secretary Maynard's visit to the port of New York on the 17th of May?
518 A. I was not there on that occasion. I misapprehended your question as applying to the 17th of May; I have no knowledge of that interview whatever.
Q. Is galloon a trimming?
A. Yes, sir.
Q. Are there any galloons that are ribbons?
A. No, sir.
Q. Are there any ribbons that are galloons?
A. No, sir.
Q. State to the jury what is the difference between a galloon and a ribbon.
A. I do not pretend to be an expert on galloons.
Q. Are either of those samples "A" and "B," galloons?
A. I do not think I can classify these goods. I do not make any pretense to be an expert in galloons; I know them when I see them, I think.
Q. I ask you whether there are any galloons there?
A. I think there are; yes, sir.
Q. In which bunch?
A. In "B."
Q. In these Government sample books that you referred to, do you remember whether there are any galloons?

A. In book No. 1 I think there are none; in the other books I think there are.

Q. Are there galloons in books Nos. 2 and 4?

519 A. I can not say.

Q. You do not remember?

A. I do not remember; it is in either one of the books, from 2 to 7, inclusive.

Q. But you do not remember which one?

A. No, sir; I am not confident about that, either; one thing I am confident of, and that is that they are not in book 1. They are in some of the other books, I think.

Q. Since April 25th, 1888, what officer, if any, of the United States has talked with you about the classification of ribbons?

The DISTRICT ATTORNEY. Does your honor think that is cross-examination?

Mr. TREMAIN. I want to show what this witness has been instructed; I want to show the pressure put upon this witness.

The DISTRICT ATTORNEY. If that is your purpose, I have no objection.

The WITNESS. You can go ahead with that.

By Mr. TREMAIN:

Q. What officer, if any, has talked with you about the *the* classification of ribbons?

A. I do not think any officer has talked with me officially on

520 the classification of these goods.

Q. Do you mean to say that no officer of the Government has talked with you since April 25th?

A. I said officially; I qualify that.

Q. Will you state the name of any officer who has talked with you on that subject since April 25th, 1888?

A. Any officer of the Government?

Q. Any officer, except Appraiser McMullen.

A. I think the general officers of department 3, the examiners—I mean the examiners of the third division of which I am officer of.

Q. Name him.

A. I think Mr. Gross, the assistant appraiser.

Q. Is he here?

A. I do not see him.

Q. Who else?

A. Francis Gross, assistant appraiser.

Q. Who else?

A. I think I have talked with Mr. N. J. Corbett.

Q. The gentleman is here, and was on the stand.

A. He is here in the room; I think I talked with Mr. Wisdin.

Q. Is he an examiner?

A. Yes, sir.

521 Q. Those are your associates, are they not?

A. Yes, sir.

Q. Who else?

A. I think I have talked with Mr. David W. Lee.

Q. Is he an examiner?

A. He is also an examiner.
Q. Who else?
A. I have no recollection of any others.
Q. No other agents of the Department?
A. Do you mean of the New York or Treasury Department?
Q. Anybody else in the Government employ?
A. I have talked, I think, with Mr. Keegan, the general examiner of dry goods here in Philadelphia.
Q. Who else?
A. I think I had some conversation the other day with Col. Baker; I won't be positive about that, though.
Q. Who else?
A. I think there was a gentleman stood by; I do not know what his name was; one of the examiners in the appraiser's division, here in Philadelphia; I do not know what his name was.
Q. Who else, besides him?
A. I think I have exhausted the category.
Q. Have you exhausted the category?
A. I think so.
Q. Are you sure.
A. So far as I can recollect.
Q. Did you speak with Mr. Hanley?
522 A. I do not think I have talked with Mr. Hanley on that subject.
Q. Did you speak with Mr. Chance?
A. I do not know any such gentleman.
Q. Did you speak with Mr. Tingle?
A. I do not think I have had any conversation with Mr. Tingle.
Q. Are you sure?
A. I am positive about that.
Q. Did you speak with Mr. Tichener?
A. No, sir; I am certain about that.
Q. Do you remember any agent's name you have spoken to?
A. No; I have no recollection of any others.
Q. What domestic manufacturer have you talked with?
A. I think I have made some general remarks to Mr. Lambert; I think I have, but I am not positive about that, either.

Redirect examination by the DISTRICT ATTORNEY:

Q. When did you first know that you would be called upon to attend this session of court?
A. On Monday afternoon of last week.
Q. You were subpœnaed to come here?
A. By a marshal of the United States. I think it was about two
523 or three o'clock last week ago to-day.
Q. Have you been directed or requested or ordered by any Government officer, whether of those mentioned by Mr. Tremaine, or any others, to testify in this court?
A. Decidedly not.
Q. Is the testimony you have given in this court your best judgment, your best knowledge, and your best opinion?
A. Yes, sir.
Q. On every subject?

A. Yes, sir. I can testify of somebody else who attempted to bring pressure upon me.

Q. Who is that somebody else?

A. That is the gentleman who sits in front of me.

Q. What is his name?

A. Mr. Tremain.

Q. When?

A. To-day.

Q. What did General Tremain say?

A. He intimated to me that my testimony would be influenced, from the fact——

Mr. TREMAINE. What did he say?

A. That I was a Government officer, and if I did not testify in favor of the Government, I would lose my office.

The DISTRICT ATTORNEY:

Q. That is what he intimated?

A. That is what he intimated.

524 Q. When was this?

A. At recess. He said my testimony would be biased by that pressure.

By Mr. TREMAIN:

Q. What did he say, is the question?

A. I cannot remember the language of Mr. Tremain.

By the DISTRICT ATTORNEY:

Q. That was the effect of it?

A. That is what I judge to be the effect and purpose of it, and I so mentioned it after I got out of the room.

Q. Have you any interest in this trial?

A. Nothing whatever; only to give the facts and the best testimony I can.

Q. When did you first hear this case was to be tried in this district?

A. On last Monday afternoon, a week ago.

Q. You had no knowledge of it before, had you?

A. No knowledge whatever, intomation or direction, or anything whatever; I had no knowledge of it until last Monday.

Recross-examination by Mr. TREMAIN:

Q. What was it that Mr. Tremain said to you?

A. I cannot recollect the words.

525 Q. It was not over two hours ago?

A. It is now a quarter of three; it was about five or ten minutes past one.

Q. State as nearly as you can, what the question was he asked you?

The DISTRICT ATTORNEY. Does Mr. Tremaine propose to take the stand?

Mr. TREMAIN. I am cross-examining the witness, testing his recollection.

The DISTRICT ATTORNEY. I would like to know as a matter of fact, whether he does, or does not.

Mr. TREMAIN. I am testing his recollection.

The WITNESS. I say it was a remark made; I cannot remember distinctly the form of it, but the impression left upon my mind was——

Mr. TREMAIN. Never mind that; tell what is your recollection about what he said?

A. I could not give you the words, exactly.

Q. The substance?

A. I could not give you the substance. I say only so far as I gathered that the impression is left on my mind——

Q. Never mind the impression.

526 The DISTRICT ATTORNEY. You have asked him to give the words, and he says he cannot; now you ask the substance, and he has given you the substance, and you do not want it; he has given you how he understood it.

Mr. TREMAIN. That is another thing; that may be correct, or incorrect. What is the substance of what Mr. Tremain said that you alluded to?

Q. What is the substance of it?

The DISTRICT ATTORNEY. State according to your recollection, all you can remember?

A. The substance was this—I am not disposed to keep anything back.

Mr. TREMAIN. State it.

The DISTRICT ATTORNEY. Do not insinuate that he wants to keep anything back.

Mr. TREMAIN. I do not; I never insinuated that he was not an honest witness.

The WITNESS. I stated the fact that plaintiff had subpœnaed me as a witness, and after court adjourned, I spoke to Mr. Tremain, and said, "how long do you suppose we shall have to remain here in Philadelphia?" referring to the fact that I had been subpœnaed by the plaintiff, and

527 I was compelled to return to New York on Wednesday, and I asked that question. My motive in asking the question was, whether I should go to the hotel and engage a room, or whether I should be obliged to stay to-night, and the conversation followed.

Mr. TREMAIN. Go on, and tell the whole story.

The WITNESS. I am trying to tell it; I cannot recollect all the details.

By the COURT:

Q. Tell as far as you can recollect.

A. I am endeavortng to do it. The intimation in Mr. Tremain's remark to me, and for the life of me, I can't recollect distinctly what it was.

By Mr. TREMAIN:

Q. Did he say he could not control how long you should remain?

A. He said that; yes, sir; he said he could not control how long I should remain, of course.

Q. What else did he say; did he say he sympathized with you gentlemen?

A. I don't know whether he did, or not.

Q. What was it he said that gave you the impression that you have testified to?

528 A. The intimation was this; the intimation and remark—I may have misconstrued your remark—I will admit that—I may have

misconstrued, but I got the impression and so said after I got out of the room to my friends that I took that impression that you thought I could not give testimony any other than favorable to the Government, because I might lose my position; I do not know but what I think so yet.

Q. I suppose you do, but that has no weight upon me.

By the COURT:

Q. When ribbons are spoken of in the regular sense, or in reference to the use to which they are to be applied as decorating hats and so on, how are they described?

A. They are described under the general head of ribbons.

Q. When they are spoken of in reference to some particular use, decorating hats, and so on?

A. Your honor, I cannot answer that directly, only in this way: it depends upon who speaks of it, each class of trade speaks of it.

The COURT:

Q. That is a very funny kind of an answer?

A. It is true; a ribbon may be a dress trimming; a ribbon may be a bonnet trimming; and it may trim a slipper, or it may trim a basket.

529 Q. When they are spoken of in connection with the use in which they are to be employed, how are they described; in other words, are they described as bonnet trimmings, or not?

A. No; they are described as ribbons—spoken of under the general head of ribbons.

Q. That is when you speak of them to be used by milliners or talk of them in decorating hats, and so on, you would not say trimmings, would you?

A. Why, certainly not; never did; never would.

(Letter heretofore produced by Mr. Cadwalader, read as follows:)

TREASURY DEPARTMENT,
Washington, June 21st, 1888.

JOHN CADWALADER,
Collector of Customs, Philadelphia:

SIR: Referring to your letters of the 14th and 18th inst., submitting certified statements for settlement of suits pending at your port for refunding duties on hats trimmings, so called, I have to inform you that the question as to the practical effect and scope of the decision of the United States Supreme Court in the Langfeldt case (S. 8803) will be submitted by
530 the board of United States appraisers at its meeting in New York in July next. You will therefore please discontinue the reliquidation of entries under such duties until further orders. You will also please inform the appraiser at your port of the fact that the question will be considered at a conference of the appraisers at New York, and request him to prepare for the use of such conference a complete list of samples, showing the practice at his office in the classification of hats trimmings, and also showing the particular goods which, in his opinion, are covered by the decision of the Supreme Court in the Langfeldt case.

Respectfully, yours,

I. H. MAYNARD,
Secretary.

531 WILLIAM STRANGE, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. Paterson, N. J.

Q. What is your business?

A. Manufacturer and merchant.

Q. Manufacturer of what?

A. Silk goods.

Q. What kind of silk goods?

A. Ribbons, and tailors' trimmings, and piece goods; dress silks and articles of that kind.

Q. To what extent are you engaged in the manufacture of these articles?

A. A million and a half.

Q. A million and a half of dollars per annum?

A. Yes, sir; a million and a half of dollars per annum.

Q. How long have you been engaged in it?

A. Since 1867.

Q. How long have you been engaged in the manufacture of ribbons?

A. Since that time.

Q. How many hands do you employ?

A. About 1,500.

Q. What proportion of your output is represented by manufactured ribbons?

A. I should think 3-fourths—75 per cent.

532 Q. Do you manufacture various kinds of ribbons?

A. Yes, sir.

Q. Different patterns?

A. Yes, sir.

Q. To whom do you sell?

A. Sell to all the large jobbers and some of the large retailers all over the country.

Q. Can you tell me, if you have had any experience so as to enable you to form an opinion, what proportion of the ribbons manufactured in this country and the ribbons imported are used for ornamenting hats?

(Objected to, because the witness does not deal in imported ribbons, and therefore can not institute a comparison.)

The COURT. If he knows, he can answer the question; if he does not know, he can say so.

Q. Does your knowledge enable you to answer the question?

A. I think I can judge of the quantity.

(Objection overruled. Exception by Mr. Tremain, because witness' statement would be a mere matter of opinion.)

The COURT. He is not expected to state a mere matter of opinion; he intimates he can give an estimate founded on his knowledge of the fact itself.

533 (Question read to the witness.)

(At the suggestion of the court, the question was made to read, "Q. Can you tell, if you have had any experience so as to enable you to form an estimate, of what proportion of the ribbons manufactured in this country and ribbons imported are used for ornamenting hats?")

Mr. TREMAINE. I would like to have that question divided, so this gentleman will say he can tell before he tells us.

By the DISTRICT ATTORNEY:

Q. Are you able to form an estimate?

A. I might not be able to form an exact estimate, but I think I could form an approximate estimate.

Q. And a safe estimate?

A. I think so.

Q. Please answer the question.

A. I do not think there are more that from 20 to 25 per cent. of the ribbons that are imported and manufactured in this country that are used for putting on bonnets.

Q. What are the various uses to which ribbons are put?

A. There are a great many; I will enumerate some of them, but there will be a great many even then that will be left out. They are
534 used for almost all purposes. They are used for trimming baskets; they are used for trimming ladies' underwear; they are used for trimming fans or putting on fans; they put them on parasols, and there are a thousand other different uses to which ribbons can be put, and are put.

Q. And dresses?

A. Dresses, extensively.

Q. Please look at those Wanamaker samples, and state what they are.

A. The general term for these is ribbons.

Q. Have they any specific term other than general?

A. They have no specific term, excepting that one is called a satin edge, and another is called a gros-grain, and another is called a satin ribbon or double face, or some such a thing as that, to indicate what style ribbon it is, but ribbon is the name.

Q. What is their commercial designation?

A. Ribbon.

Q. How long has it been the commercial designation of articles like these?

A. As long as I have been in the business.

Q. Since 1867?

A. Yes, sir.

Q. Have they at any time had any other commercial designation?

A. None that I know of.

Q. You would be apt to know, would you not?

A. I think so.

535 Q. Have you imported ribbons at any time?

A. Yes, sir; I have not personally imported ribbons, but the house has. My father and uncle were in the business before I was in it.

Q. What was the firm?

A. Strange Brothers. The same firm exists now.

Q. How long have they been importing ribbons?

A. They have been importing ribbons up to the time they gave up, about 40 years ago.

Q. When did they give up?

A. They gave up about 10 or 15 years.

Q. Did they import largely?

A. They were very large importers.

Q. Will you please state whether it can be ascertained at the time of the manufacture of a ribbon, or at the time of its importation into this country, what it is to be used for?

(Objected to as speculative.)

The COURT. Is it a fact you are asking the witness to state, or a mere guess?

The DISTRICT ATTORNEY. I am asking him to state it as a fact within the range of his experience.

536 Mr. TREMAIN. The Supreme Court has intimated that it is not proper to go into the use of a particular ribbon and to show that it is to be used on a particular hat. It was intimated that the suggestion in the brief of the learned Solicitor-General was hypercritical, and the fact to be ascertained is, what is the chief use as a commodity?

The COURT. The witness' answer could only be a speculation.

The DISTRICT ATTORNEY. He has been in the importing business and is largely engaged in the manufacturing business.

The COURT. That may be, but he could not tell what other people might find out or not find out.

The DISTRICT ATTORNEY. That is what I want to find out, that no one can tell.

The COURT. That is not a fact that the witness can testify to.

The DISTRICT ATTORNEY. I think he can testify to the range of his knowledge on it. It may amount to a great deal or to but little, but it seems to me it is important testimony on the subject and the jury are entitled to have it.

The COURT. You may ask the witness what his knowledge
537 is, but not what he suspects may be the knowledge of other people.

By the DISTRICT ATTORNEY:

Q. Speaking of your own knowledge and experience, are you able to tell at the time the ribbon is imported or at the time it is manufactured what it will be used for?

A. No, sir.

Q. Some ribbons are used for ornamenting hats, are they not?

A. They are used for it; yes, sir.

Q. In that particular, is there any change in the demands of fashion from year to year, or from season to season?

A. Yes, sir.

Q. There are two seasons in a year, are there not?

A. There are.

Q. As a matter of fact, with what are hats ornamented at the present season, if you know?

A. From the indications that I have seen and observed, I should suppose that ribbons were not going to be used so extensively as they have been used. The large quantity that will be used will be flowers and feathers and velvet.

By the COURT:

538 Q. Do you think you meet on woman, on a street, passing along, looking at her bonnet, or hat, that it has not ribbon on it?

A. I made a special business of that very thing lately, and I noticed five ladies to one that had velvet and other trimmings on, and only one had ribbons, much to my regret.

By the DISTRICT ATTORNEY:

Q. When did you make that examination?

A. I think it was last Friday. Fashions change so quickly and so suddenly you can not tell from day to day what they may be.

Q. Can you state whether ribbons were largely used two years ago for the purpose of ornamenting hats?

A. I think they were.

Q. How about three years ago?

A. I think they were.

Q. How about 4 years ago?

A. I do not think they were.

Q. You are speaking from your experience?

A. Yes, sir.

Q. Is the value of ribbon enhanced by the purpose for which the article is used?

A. Not necessarily. Sometimes it is enhanced.

The COURT. I do not think that makes any difference.

The DISTRICT ATTORNEY. My friends, in the examination of
539 their witnesses, sought to impress the jury with the belief that if ribbon was not used for bonnets it was valueless, and was put in job lots and sold.

Q. Tell me whether the use of the articles of which these are samples of Wanamaker's are confined to any particular purpose, or not?

A. No, sir.

Q. Are they not equally adaptable to other purposes as well as for making and ornamenting hats or bonnets?

A. They are.

Q. Have you made similiar goods?

A. Yes, sir; similar to some; there are some here that I haven't made. For instance, this one I have not made (referring to Exhibit No. 313). I have not made this one either (referring to Exhibit No. 1193). Velvet ribbons I do not make at all. Here is another one I have not made [indicating]. In fact, I do not know that I have made any of these, but I have made the same class.

Q. I do not ask you whether you have made the identical ribbons, but anything of the same kind?

A. I have not made any of these articles that have velvet on. I have made similar ribbons.

540 Cross-examination by Mr. TREMAINE:

Q. There are a great many articles, are there not, that are dealt in by those who deal in tailors' trimmings?

A. Yes, sir.

Q. A large variety of commodities of that kind?

A. Yes, sir.

Q. Each has its specific name?

A. Yes, sir.

Q. There are a large variety of articles, are there not, which are dealt in by those who deal in dress trimmings?

A. Yes, sir.

Q. That is a fact, is it not?

A. Yes, sir.

Q. Each of these articles has its specific name?

A. Yes, sir.

Q. There are a large variety of articles that are commodities among upholst'ry people that are upholstr'y trimmings?

A. I do not know anything about upholstr'y trimmings.

Q. You know that there is such a class of trimmings, do you not?

A. Yes, sir; I know there is such a class.

Q. Do you know such a class of trimmings as saddlers' trimmings?

A. No, sir.

Q. Harness trimmings?

A. Yes, sir; harness trimmings.

541 Q. Coach trimmings?

A. Coach trimmings.

Q. Shoe trimmings?

A. Shoes trimmed.

Q. S'oe trimmings?

A. Yes, sir; there are shoe trimmings, too.

Q. There are classes of dealers who deal in those various kinds of trimmings, are there not?

A. Yes, sir.

Q. Are there commodities that are dealt in by those who deal in millinery trimmings?

A. Those dress trimmings you spoke of—do you mean ribbons used for dresses? Of course we do not sell saddlers' goods and such things as that.

Q. There is a class of dealers, is there not, who deal in what they call millinery trimmings?

A. I do not know of any.

Q. Did you ever see the sign "Millinery trimmings?"

A. I can't remember that I have.

Q. As a commercial man, have you not seen the advertisement "Millinery trimmings?"

A. Yes, sir; I have seen the advertisement. I remember that I have seen it in advertisements.

Q. That has been a common thing for a great many years, has it not?

542 A. Yes, sir; I think, though, it is "millinery goods." I do not think it is "millinery trimmings." I think the advertisements come under the head of "millinery goods" generally. It may be sometimes "millinery trimmings."

Q. There are a great many commodities which are in fact used as trimmings for millinery purposes, are there not?

A. Yes, sir.

Q. When you speak of a class of articles as trimmings for millinery purposes, you do not describe any one specific article, do you?

A. There are goods that are specially adapted for millinery trimmings. We do not deal in those goods.

Q. When you speak of millinery trimmings, do you thereby identify any one specific article, or a class of articles?

A. They are a class of articles.

Q. And that class comprises almost an infinite number, does it not?

A. Yes, sir.

Q. Made of various materials?

A. Yes, sir.

Q. Silk, and silk and cotton?

A. Yes, sir; silk and cotton.

Q. Worsted?

A. I don't know anything about worsted. That is not in my line.

543 Q. Did I understand you to say that you made velvet?

A. No, sir; I say we do not make any velvet.

Q. You have not assumed to enumerate all of the various uses to which ribbons may be put?

A. No, sir; I have not, by any means.

Q. If I understood you correctly, there might be a thousand uses in addition to those you have enumerated?

A. Yes, sir.

Q. They are always used to trim, are they not?

A. Not always.

Q. Most always?

A. Yes, sir; generally they are used to trim.

Q. When a ribbon is not used to trim it is diverted from its intention, is it not?

A. Yes, sir; I suppose it is.

Q. Do I understand you to say that you make it your business to study the fashions?

A. Most assuredly.

Q. With a prophetic eye?

A. I try to.

Q. To adapt your business and progress to it?

A. Yes, sir; that is what I endeavor to do.

Q. You import styles, do you not?

A. No, sir; I haven't done that. I have imported some small

544 bits of ribbon that come to us as samples of what they suppose is going to be good.

Q. You utilize those for patterns?

A. Yes, sir.

Q. That is the principal part of your importations of ribbons recently?

A. That is the entire importation. I do not import any at all now.

Q. When did you go out of the importing business?

A. About 10 or 15 years ago.

Q. You had a controversy with the Government about ribbons, did you not?

A. I do not think so.

Q. Did you not get a refund as the result of that controversy?

A. Not that I know of. I do not think we ever protested a single thing except some raw silk.

Q. What was the name of the predecessor of your house?

A. Strange and Brother.

Q. When did they cease to import ribbon in any large quantity?

A. About 15 years ago, I should think. May be longer than that.

Q. Did not that house have a controversy with the Government about the duty on some ribbon?

A. I think not.

Q. You do not think they got some money back?

A. No, sir.

545 Q. Do you pretend to say that you can tell when you see a ribbon what it is going to be used for?

A. No; I never made any such pretensions.

Q. Can anybody else?

A. No; I do not believe there is a man who can, or a woman.

Q. Is ribbon specially adapted for ornamenting hats and bonnets?

A. No, sir.

Q. Have any ribbons any substantial, commercial value because of their special characteristics for a certain use?

A. Ribbon has a substantial character from its adaptability to any use.

Q. Can you sell the same class of ribbons to the millinery trade as you can for use on men's hats?

A. No.

Q. Can you sell the same class of ribbons to the hatters' trade for men's hats as you do to the basket trade?

A. Well, I think I can.

Q. You can trim a basket with anything?

A. You can trim a basket with anything.

Q. And you can trim a hat with anything?

A. What kind of a hat?

Q. Any kind of a hat.

A. No; I would not trim a hat with a barrel, for instance.

546 Q. Are some ribbons especially adapted for tieing cigars with?

A. Yes, sir.

Q. Those would not be hat ribbons?

A. No; they might be used for inside, and are sometimes used for inside, lining.

Q. You would not say what was their chief use?

A. No, sir.

Q. The chief use of those ribbons would be for cigar ribbons?

A. Undoubtedly.

Q. Is it not a fact that there are some ribbons the chief use of which is to trim men's hats with?

A. Yes, sir.

Q. Can you tell such a ribbon when you see it?

A. I can; yes, sir.

Q. People in the hatters' trade, making and ornamenting hats for men, can tell?

A. Well, I know that is my observation. I am not buying men's hats, and don't make those goods, and have nothing to do with them. Therefore I can only tell by my own observation.

Q. You consult the trade for ribbons generally?

A. Yes, sir.

547 Q. Is it not a fact in your observation that there are special classes of ribbons which are adapted to trimming men's hats?

A. Yes, sir.

Q. That is a fact?

A. Yes, sir.

Q. And persons expert in the trade can distinguish what ribbons are commercially useful, or useful in trade for that purpose?

A. Yes, sir.

Q. That is a fact?

A. Yes, sir.

Q. Have you an experience sufficient to form a fair estimate in your own judgment of the number of ribbons that are imported which are used for trimming men's hats with?

A. No; I can't tell how much; a very small proportion of the quantity.

Q. The men in the hatters' trade can pick out those ribbons generally?

A. Yes, sir; I should think so.

Q. Do you mean to testify that persons in the millinery trade can not pick out ribbons that are adapted to that trade?

A. I do.

Q. You say they can not do it?

A. They can pick out a ribbon adapted to what they want to use it for.

Q. They can do it?

A. Yes, sir; they can pick out what they want, of course. Anybody can go and pick out what they actually want.

548 Q. Have you any basis upon which you can form an opinion of the proportion of ribbons that are imported to the total consumption in this country?

A. Well, I have a general idea that ribbons imported amount to over three millions, and that the ribbon manufactured here amounts to somewhere about ten millions.

Q. There has been a great increase in the domestic product within the last ten years?

A. Well, we are going on; not standing still.

Q. There has been a great increase in the domestic product?

A. Yes, sir.

Q. Is it a fact within your knowledge that a very considerable proportion of the imported ribbons are in fact principally used for ornamenting hats and bonnets?

A. That they are?

Q. Yes.

A. No, sir.

Q. You think they are not?

A. I think they are not.

Q. You think the imported ribbons are not used extensively for that purpose?

A. I do. If you say "extensively," I believe they are extensively used.

Q. I asked you that.

A. Then I take that back.

Q. What did you understand me to say?

A. I understood you to say "chiefly."

549 Q. I did not say that. What is your answer?

A. My answer is that they are extensively used.

Q. When did you begin to be active in your efforts to prevent bonnet ribbons being admitted at 20 p'r cent.?

A. Ever since there has been anything talked about them.

Q. You have been especially active since 1888?

A. No, sir; I have not been especially active in travelling around.

Q. Were you not especially active in April and May, 1888, in this particular?

A. How do you mean, active?

Q. Have you done anything to prevent the duty on bonnet ribbons from being 20 per cent.?

A. I have been, on bonnet ribbons.

Q. Anything else?

A. No, sir.

Q. Did you have an interview with the Secretary of the Treasury on the 10th of May, 1888, on this subject?

A. I do not know anything about the date, but I have had an interview with him.

Q. With the Assistant Secretary also?

A. Yes, sir.

Q. With Mr. Fairchild?

A. Yes, sir.

Q. And Mr. Maynard?

A. Yes, sir.

Q. Both interviews occurred on the same day?

A. Yes, sir.

550 Q. Was Mr. Lambert with you?

A. Mr. Lambert was with me.

Q. Who else was present?

A. Mr. Richardson.

Q. Is he here?

A. He is here.

Q. And the secretary of the American Silk Association?

A. Yes, sir; the vice-president.

Q. Is he here?

A. He is here.

Q. Was he present on that occasion?

A. He was.

Q. Any others?

A. I think that was all. I don't think there were any more.

Q. You made that visit in consequence of the publication of the Langfeldt decision, in the Secretary's order?

A. I think it was.

Q. Whom did you say you sold to?

A. I sell to the large jobbers and large retailers, such as, in New York, Aitkin, to O'Neill, and many of the large jobbers there; Stern, and large retailers. Then out West we sell in Chicago and St. Louis; and in the East, in Boston, and in fact all over the country.

Q. You said a little while ago that you noticed hats were trimmed with velvet trimmings. What kind of trimmings were they?

A. Well, velvets.

551 Q. A special kind of velvets?

A. Well, as a general thing they use cotton backs for them.

Q. Some velvet ribbons?

A. Yes, sir.

Q. That is what you meant when you spoke of velvet trimmings?

A. No; I wasn't thinking of those ribbons. I say there are some, too; sometimes they are manufactured and sometimes they are not.

Q. All used in trimming hats and bonnets?

A. They are used to put on a bonnet; yes, sir.

Q. Whom do you sell your ribbon products to in Philadelphia?

A. To Kohn & Adler.

Q. Those are your chief customers?

A. Yes, sir.

Q. Were you here when Kohn was on the stand?

A. Oh, yes, sir.

Q. Did you hear him testify?

A. Yes, sir.

Q. That is, as to the chief use of particular classes of ribbons?

A. Yes, sir.

Q. Did you hear Mr. Kohn testify that the chief use of these Wanamanker fancy ribbons here in this case was for trimming hats and bonnets?

A. I did.

Q. Who are your chief houses in New York?

A. Oh, a number of them; there is Stern; there is O'Niell and Johnson, and a number of others.

552 Q. J. D. Johnson?

A. Yes, sir.

Q. Did you hear Mr. Brett, of that house, testify as to the chief use of these fancy ribbons?

A. I think I was here, but I don't know anything at all about what he testified.

Q. Have you made any very considerable quantity of styles identical with these Wanamaker samples?

A. Yes, sir.

Q. Show which ones.

A. You mean exactly the same?

Q. Yes.

A. You mean about the styles?

Q. No; I mean the same.

A. No, I have not. Let me see [witness refers to samples]. There is a sample somewhat, I think, identical [referring to sample No. 231].

Q. How much of that did you make?

A. Oh, I suppose we must have made 100 or 150 boxes of it.

Q. Watered ribbon?

A. Yes, sir.

Q. When did you make it?

A. Some time ago; about a year; well, about nine months ago.

Q. Who did you sell it to?

A. I don't know; I sold it to anybody that wanted to buy it.

Q. What house?

A. I don't know. I don't sell the goods myself; I am the
553 manufacturer. The house is under my own name, and I sell the goods so far as that is concerned, but I do not pretend to sell the goods, personally.

Q. You do not come in direct contact with the consumers?

A. Well, I come in contact with the ladies once in a while. These are the consumers.

Q. Do you come in direct contact with those who actually use these goods?

A. Oh, yes; I do at our store.

Q. Which store?

A. Our own store in New York.

Q. And you sell to all classes of customers there?

A. I do not sell at all. I have my salesmen; they attend to that part.

Q. Are any of them here?

A. No; none of mine.

Q. You have no means, other than what you have already stated, of determining what is the chief use of the goods represented by the samples in your hand.

A. By the samples I have and by observation; seeing what they use such classes of ribbons for. The uses are so great and so numerous for this class of goods that I came to the conclusion that more of them are used for other purposes than for hats and bonnets; I am speaking of these very goods. I think it is a question that is very doubtful as to
554 whether these goods are more extensively used for bonnets than for other purposes.

Q. That is your opinion about it?

A. Yes, sir.

Q. And you have stated all the sources of information upon which your opinion is founded?

A. I have; yes, sir.

Q. You do not deny the fact that they are extensively used, from your own observation, for trimming hats and bonnets, do you?

A. No, sir.

Q. That is the fact?

A. At present undoubtedly not.

Q. Last year they were?

A. Last year they were extensively used for that purpose.

By the DISTRICT ATTORNEY:

Q. You have admitted, in answer to Mr. Tremain, that you took some interest in resisting the claim of the importers of ribbons on the subject of the duty. What was the occasion, or why did you take an interest in the subject?

A. Because it was a matter of vital importance both to myself and the artizans under me. In case all the ribbons came under that rate of duty I might just as well close up, and my operators might just as well go back into their own country and find employment there.

Q. You told that to the Secretary, did you not?

555 A. Yes, sir.

Q. What did he reply?

(Objected to.)

556 FRANK W. CHENEY, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. South Manchester, Connecticut.

Q. What is your business?

A. Silk manufacturer and merchant.

Q. Where are your mills?

A. In Hartford and South Manchester, Connecticut.

Q. What kind of silk do you manufacture?

A. We make all kinds of silk; threads, yarns, braids, goods for dresses, upholst'ry goods, goods for printing, ribbons, &c.

Q. How largely are you enguged in manufacturing silk goods.

A. I will say in this last year over three millions.

Q. What proportion of them were ribbons?

A. Oh, not more than 20 per cent. Less than that; from 15 to 20 per cent. I have not the figures exactly in mind.

Q. How many people have you in your employment?

A. About two thousand; sometimes a little over and sometimes a little under; it would average that.

Q. You say you are also a merchant?

A. Yes, sir.

557 Q. What do you mean by that.

A. Our house is in New York where all our work is distributed. We have also offices in Baltimore and Chicago.

Q. You are the president of the American Silk Association, are you not?

A. Yes, sir.

Q. Do you know what proportion of the domestic and imported ribbons are used for making and ornamenting hats and bonnets?

(Objected to. Objection overruled. Exception by plaintiff.)

A. I do not; it varies very much in a season. At the present time probably not over 15 or 20 per cent.

Q. That are used for ornamenting hats?

A. At the present time; more last year and more the year before, probably.

Q. Do you you know how it was in 1884?

A. I can't recollect very clearly; I think they were not very much in favor of them. I think that was the time when feathers and stuffed birds and other things were used for hats.

Q. You stated that the product of your mill was three millions; can you state what proportion that bears to the whole silk production of the United States?

558 (Objected to.)

The COURT. I do not think that is a matter of any consequence.

(Question withdrawn.)

Q. You stated that 15 or 20 per cent. of the production of your mill is silk ribbons?

A. Yes, sir.

Q. Can you state what proportion that product of yours is of the whole production of silk ribbons in the United States?

(Objected to. Objection overruled. Exception by plaintiff.)

A. Probably not more than 10 per cent.

Q. That is to say, you probably do not manufacture more than 10 per cent. of the whole production?

A. Of ribbons. I suppose the whole amount of ribbons is about 5 or 6 millions.

Q. Please look at the Wanamaker samples, so called, and state what is the commercial designation of the samples.

A. Ribbons.

Q. How long have they been so?

A. Always.

Q. Have they ever been known by any other title?

A. Never.

559 Q. To your knowledge have they ever been bought as trimmings?

A. They are only known, the world over, as ribbons. After they are cut up and put on bonnets they become trimmings. Before that they are ribbons: commercially entitled, ribbons.

Q. Is the use of these samples confined to any particular object, or purpose?

A. Not that I am aware of.

Q. They are used indiscriminately for various purposes, are they not?

A. For a great variety of purposes. It is impossible to enumerate them. I could not be more exact than to say one thousand and one.

Q. Are they chiefly used for any particular purpose as opposed to all the rest of the purposes that they may be used for?

(The latter part of the question is objected to.)

Q. As distinguished from all the rest of the purposes?

A. Some seasons the prevailing use for a certain style of ribbons is, that they may be used for dress ribbons, and some seasons for other purposes; in special seasons special ribbons have certain purposes, but those uses are varying all the time. It is difficult to tell. Generally, you cannot say that any of them are especially adapted to any one purpose; they are available for all uses which ribbons could be put to.

560 Cross-examination by Mr. TREMAIN:

Q. I understand you to say that sometimes they are especially adapted to a certain use by reason of the fact of their particular use?

A. Yes, sir.

Q. That, of course, changes from time to time?

A. Yes, sir.

Q. And the style or the form of the ribbon itself, changes accordingly?

A. Changes according to the demand. It varies according to what is called for.

Q. Do you know of any other use to which ribbons are put than to trimming something?

A. I look upon a ribbon as a piece of cloth of a certain width, or under a certain width.

Q. As a matter of fact, ribbons are generally used to trim something with?

A. Oh, yes, sir; I think that anything that does not constitute the body of a garment, or an article, that the purport of that ribbon is decoration, or ornamentation, or trimming.

Q. And it is that decoration or trimming which is ribbon?

A. Yes, sir.

561 Q. That has always been so with ribbons of all kinds, has it not?

A. I suppose so. Still, where it is on a hat it is called a hat-band. Decorations are trimmings, and so are belt ribbons and sashes.

Q. All ribbons trim something?

A. Yes, sir.

Q. Do you know what special class of ribbons are used to decorate men's hats with?

A. Certainly; the ordinary hat-band and hat-binding as used on black hats is a ribbon. They are designed for different purposes.

Q. But the chief use of that particular ribbon or class of ribbons is to trim men's hats?

A. That is probable.

Q. That is a fact easy to get at by hatters, as to the use of that ribbon?

A. No; because they would not know the use.

Q. But they can pick out what ribbons are mens' hat ribbons?

A. Yes, sir; but I know for a fact that a good many ribbons are used for ladies' hats.

Q. An experienced hatter can distinguish a ribbon adapted for his use?

A. He can know the ribbon when it is used at that particular time as soon as he sees it.

Q. Do these samples represent such a class of ribbons?

A. They look like the articles that are generally used in the hat business.

562 Q. These are ribbons, are they not?

A. They are generally used for that. I would not be surprised if they were.

Q. They may be cotton?

A. Yes, sir.

Q. Or it may be worsted?

A. I never knew of worsted. It is called a ribbon. The only ribbon is silk, and silk and cotton. I don't think worsted would be called that.

Q. Those articles are silk, and silk and cotton, are they not?

A. Unless some of them are all cotton.

Q. Did you ever import ribbons at wholesale?

A. Oh, not in a considerable quantity. Only once in a while to test for the market.

Q. For patterns?

A. In a larger quantity.

Q. So as to test the market or the style?

A. So as to find out the quality of the goods.

Q. You can now?

A. We could not import ribbons——

Q. You can make them like they are made abroad?

A. Oh, yes, sir.

Q. What other classes of commodities that are used for trimmings have you dealt in?

A. The only articles we manufacture which are produced for millinery are light braids and gauzes.

563 Q. They are used for trimmings, are they not?

A. Yes, sir; sometimes.

Q. Is not their chief use. There is a class of those goods used chiefly for trimmings, is there not?

A. I don't know that I quite understand you. You speak of the word "trimmings."

Q. I asked what other commodities you had dealt in that were used to trim, and I understood you to mention these?

A. Only light gauzes and braids; they can be used for dresses and other purposes. They are not exclusively for trimmings on millinery stuffs.

Q. Do you make millinery stuff?

A. Only silks.

Q. Do you make hatters trimmings?

A. Only ribbons.

Q. They are used for trimmings?

A. I don't know; I think hatters use them for different purposes.

Q. How is one ribbon distinguished from another ribbon in trade?

A. By color, quality, weight, trade names and price.

Q. Give us some of the trade names of the various kinds of ribbon?

A. Satin ribbon, gros-grain, satin gros-grain; satin on one side and gros-grain on the other; satin edge, and dozens of names.

Q. Every ribbon has a trade name?

564 A. Well, a trade name for a fancy ribbon.

Q. There are a great many kinds of fancy ribbons?

A. Yes, sir.

Q. And these have a trade name?

A. Yes, sir; gros-grain ribbon, satin ribbon, etc.; we divide them up into certain classes.

Q. And then divide the classes according to particular names?

A. Yes, sir; as far as you please.

Q. That is the way you distinguish a ribbon in trade, is it not?

A. Yes, sir; you say a certain pattern is gros-grain ribbon No. 4, or No. 9, or No. 12.

Q. Does velvet ribbon apply to ribbon?

A. Yes, sir.

Q. Does chapé ribbon apply to ribbon?

A. Yes, sir.

Q. Does taffeta ribbon apply to ribbon?

A. Yes, sir.

Q. Does cord-edge ribbon apply to ribbon?

A. Yes, sir.

Q. Does gros-grain ribbon apply to ribbon?

A. Yes, sir.

Q. Every ribbon produced you give a name to?

A. Yes, sir.

Q. As a matter of fact, they are distinguished in trade by those names?

A. Yes, sir.

Q. What is a chapé ribbon?

565 A. A ribbon made to put on silk.

Q. What use is it adapted to?

A. All uses that other ribbons are used for.

Q. You do not mean by your testimony to imply that every ribbon is in trade adapted and sold for the same purpose?

A. No; but that every ribbon is sold for all purposes.

Q. For which it is adapted?

A. Yes, sir.

Q. Are you familiar with the double-faced satin ribbons?

A. Yes, sir.

Q. Do you make them?

A. We have made them.

Q. What are they used for?

A. To put on bonnets, dresses, broom-handles, baskets, or anything you please. It is only a ribbon.

Q. What is their chief use?

A. I don't know.

Q. Does anybody know?

A. I don't believe they do.

Q. It is a matter of opinion of all those who deal as to the chief use of ribbon?

A. It is all guess-work.

Q. Is it not a matter of opinion with experienced business men who deal in them?

A. We manufacture articles having in view some particular use. Very often they are used for something else.

566 Q. You follow the custom of every manufacturer the world over in that respect, do you not?

A. We make goods adapted to every requirement we can.

Q. When you design a pattern for manufacture, do you have in view the use of that product?

A. When we design patterns for a special purpose, of course it is with that in view.

Q. That is the case with manufacturers the world over, and they manufacture with a view to such use, do they not?

A. Yes, sir.

Q. And the commercial value is somewhat dependent upon that use, is it not?

A. That, or some other use; it depends upon the demand for the product.

Q. It is somewhat dependent upon that use; the use for which it is made?

A. Dependent upon every demand that there is for it.

Q. Is it not somewhat dependent upon the use for which it is made?

A. That, or some other use. A ribbon can be made for a bonnet ribbon, and it may be a failure as a bonnet ribbon and a success as a trimming ribbon.

Q. Are you sufficient of an expert in the trade to distinguish what is the bonnet ribbon, when you see it?

A. Oh, no; I can when I see it on a bonnet.

Q. In buying and sellin' it wholesale?

567 A. No; nobody can tell.

Q. Are those bonnet ribbons on the baskets [indicating]?

A. Not, if they are on the basket. They would be if they were on bonnets.

Q. In their present condition, they are basket ribbons are they not?

A. Yes, sir.

Q. Do you mean to say, as a large wholesale dealer, that those ribbons are dealt in in the trade as basket ribbons?

A. They are not; nor are they dealt in as bonnet ribbons, or as trimming ribbons. They are simply ribbons.

Q. Fancy ribbons?

A. Fancy ribbons if they are fancy, and plain ribbons if they are plain.

Q. You do not mean to imply by your testimony that the chief use of the Wanamaker samples is to be put on baskets, do you?

A. Oh, no.

Q. I understood you to say that of your own product a certain proportion were used for millinery purposes?

A. I did not say so.

Q. Did you not give as opinion as to the proportion of your product of ribbons that are used for millinery purposes?

A. No, sir.

Q. What did you give?

568 A. The proportion of our own manufacture.

Q. That was used for ornamenting hats?

A. Oh, no; I know nothing about it.

Q. You do not give any opinion upon the proportion of your product that is used for making and ornamenting hats?

A. I can not; I have no idea; I do not know whether it is 5 per cent. or 50 per cent. It is only a general estimate that of all the ribbons used in the country probably 15 or 20 per cent. might go in to the millinery trade.

Q. Is that your opinion, that they do?

A. Yes, sir.

Q. And in respect to your product you have no opinion as to what proportion is used for millinery purposes?

A. I do not know anything about it.

Adjourned until Tuesday, October 9th, 1888, at 10 o'clock a. m.

569 U. S. States circuit court, eastern district of Pennsylvania. October term.

WANAMAKER *vs.* CADWALADER.

Before Hon. William McKennan, justice, and a jury.

FIFTH DAY.

PHILADELPHIA, *Tuesday, October 9th,* 1888—10 a. m.

Present: Messrs. Tremaine, Kingston, and Pritchard for plaintiff; the district attorney for the Government.

CHARLES F. HOMER, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. I reside in New York.

Q. Where is your place of business?

A. No. 60 Green street.

570 Q. What business are you engaged in?

A. In the manufacture and sale of ribbons and silks.

Q. Where is your factory?

A. We have one in Paterson, one in Bolton, and one in Harrisburg.

Q. What is the extent of your business?

A. Nearly two millions.

Q. Two millions a year?

A. Yes, sir.

Q. Of silk goods?

A. Yes, sir.

Q. What proportion of your output is composed of ribbons?

A. One-half.

Q. How many hands do you employ?

A. It varies from 1,800 to 220.

Q. Have you ever imported ribbons?

A. Yes, sir.

Q. When?

A. From 1863 to 1879.

Q. Are you able to say what proportion of the ribbons manufactured in this country and those imported are used for the purpose of making and ornamenting hats and bonnets?

Mr. TREMAINE. What proportion of each?

The DISTRICT ATTORNEY. Yes; what proportion of each.

Mr. TREMAINE. I object. The proportion of ribbons that are used for trimming hats is not a question here. We do not claim, and have not claimed, notwithstanding the opinions of some of our witnesses

571 and the opinions of some gentlemen, that all ribbons are dutiable at 20 per cent., because all ribbons are chiefly used for hats. We have never made any such claim. The issue here is whether these ribbons are chiefly used for hats. Not whether all ribbons are used for hats. We disclaim any such claim as that.

The COURT. That is the only way of ascertaining what is the chief use of these particular ribbons.

(Objected to. Objection overruled. Exception by Mr. Tremaine.)

A. No man can answer that question with any accuracy, for once ribbons go into the market the use is entirely optional to the buyer.

Q. Do you know the house of Strouse, Thanhauser & Co.?

A. Yes, sir.

Q. The house Bowen, Dungan & Co.?

A. I do.

Q. The house of S. Ables & Co.?

A. I do.

Q. The house of Dannenbaum Sons & Co.?

A. I do.

Q. Witnesses from each of those houses were on the stand in this case, were they not?

A. Yes, sir.

Q. Did you obtain these cards?

A. Yes, sir; the card that is from Bowen, Dungan & Co. was given me by Mr. Bowen; the card of Strouse, Thanhauser & Co. was
572 given to me by Mr. Thanhauser, and the card of S. Ables & Co. was given to me by that house, and the card of Dannenbaum Son & Co. was given to me by Mr. Dannenbaum.

Q. Is there anything on there about trimmings?

(Objected to.)

Q. Look at these samples [handing Wanamaker's samples to witness] and state what they are. What is their commercial designation?

A. Ribbons.

Q. Have you dealt in ribbons like those?

A. Yes, sir; I cannot say those identical patterns, but the goods may vary a little. Patterns of similar character; maybe all the same character of manufacture.

Q. What is their commercial designation?

A. Ribbons.

Q. How long has it been so?

A. I have known it for 25 years.

Q. Both as an importer and as a manufacturer?

A. Yes, sir; with the exception of one here. Here is an article that is put in here that does not belong to the ribbon category alone. It is what is called in the parliance of importers as "passementre." It is made almost exclusively for dress purposes. It does not come in under the head of ribbons, at all, and not made by ribbon manufacturers.

573 Q. Have those articles ever had in your experience any other commercial designation than that of ribbon?

A. No, sir; excepting it might be qualified by stating fancy ribbons, but they are not under the general commercial heading known as ribbons, and made by ribbon manufacturers. If a person came in to buy these goods he probably might ask, have they anything in fancy ribbons, as to distinguish them from perfectly plain.

Q. Some might ask for watered ribbon?

A. Yes, sir.

Q. Or a gros-grain?

A. Yes, sir; there is some velvet, and there is some glace ribbon. All of them have little technical differences, but they are all known as ribbons.

Q. Is the value of ribbons changed by the purpose for which the article is made?

A. I could say yes, and no, to that. The value of ribbons may change the purpose for which they are used, to turn it the other way. You take a handsome, high-priced article, and it will be used for a first-class trade, for some particular purpose. If the same article becomes passé, then it may be taken up and bought as something that was not anticipated by the market. Bought, as we should term commercially, as a job lot.
574 Then it may go into purposes which are entirely foreign—for sale in a very cheap class of goods which could not afford to pay the

price of the high priced article, although they buy the high priced article for lower than its value, or the importation.

Q. Please look at Exhibit "A" and Exhibit "B," and tell me what the commercial designations of those articles are.

A. Exhibit "B" are known as hat-bands.

Q. That is their commercial designation, is it?

A. Yes, sir.

Q. Among the people who buy and sell them?

A. Yes, sir; I should place Exhibit "A" in the same category.

Cross-examination by Mr. TREMAIN:

Q. Is a hat-band a ribbon?

A. Not necessarily.

Q. Are there ribbons that are hat-bands?

A. Yes, sir.

Q. Do you deal in hat ribbons?

A. No, sir.

Q. You do not sell any ribbons for men's hats?

A. Ah, that is a different matter. We sell the ribbons; they can use them on hats if they want to.

575 Q. Do you sell any ribbons that are chiefly used for men's hats?

A. No, sir.

Q. You do not sell the hat-bands?

A. No, sir.

Q. In any form?

A. No, sir; I am a manufacturer. For a number of years those goods have been imported—hat-bands. So far as our production is concerned, we never have made them, and consequently do not sell them.

Q. You are familiar with the class of goods represented by Exhibit "B?"

A. When I was in the importing business I imported those goods; yes, sir.

Q. Sold them to what class of dealers?

A. Sold them to men who made hats; used for binding, used for various purposes, but are almost exclusively used for men's hats.

Q. From your experience in trade, do you say that a merchant could distinguish the commodity that was used for trimming men's hats from other similar commodities?

A. If you apply it to that question, I say yes; if you meant to say that men's hats are exclusively trimmed with that, I should say no.

Q. Generally, I mean.

A. Generally; yes, sir.

Q. Speaking of ribbons that are used on bonnets, as well as for other purposes, what is there in a ribbon that makes it become expensive?

A. The character of the goods.

576 Q. Explain that.

A. Do you refer to the plain ribbons, or fancy ribbons?

Q. To the fancy ribbons. Explain to the jury; what is it that makes them expensive?

A. If it is a fancy ribbon, there is more or less expense incurred in the designing of the figure, the number of colors employed, the quantity of material used, the amount of labor as between one of a rich design and one of a plainer. Just the same as there is a proportion between a

fine pair of boots and a common pair, or a common suit of clothes and a fine one.

Q. Is it a fact that the ribbons that are used to trim ladies' hats and bonnets are extensively of the expensive kind?

A. Not necessarily.

Q. Are they extensively, as a matter of fact, expensive?

A. No, sir; not necessarily.

Q. Are they?

A. No, sir; the proportion——

Q. I did not ask you about the proportion. I asked you whether the expensive ribbons are extensively used for trimming ladies' bonnets and hats?

A. Yes, sir; they are extensively used.

Q. Your house is Belgrum & Meyer?

A. Yes, sir.

Q. They are domestic manufacturers?

A. Yes, sir.

577 Q. And no longer importers?

A. No, sir; we never were.

Q. You said you ceased to import in 1879?

A. I went with them in 1879; 15 years prior to that I was importing.

Q. With what house?

A. Salionaice & Fryer & Co. After that, Ketter, Luckemeyer & Co.

Q. That house has changed since. Now the house of Luckemeyer, Joffray & Co.?

A. Yes, sir.

Q. Have you sold your ribbons through commission houses?

A. Now?

Q. Yes.

A. No, sir.

Q. Have you at any time?

A. No, sir.

Q. You still sell through these houses?

A. Yes, sir; and our own—we have our own store.

Q. Do you sell to the millinery trade?

A. Yes, sir.

Q. Does the millinery trade constitute one class of your customers?

A. Yes, sir.

Q. Quite an extensive class?

A. No, sir; exceedingly limited. Limited in proportion to the goods that are sold elsewhere.

Q. You mean to your goods that are sold elsewhere?

A. Yes, sir; I mean the percentage of our goods that are sold
578 to the millinery trade would not be over about 15 or 20 per cent.

Q. That is of the total?

A. Of the total sales.

Q. You deal largely in piece silks?

A. Yes, sir; equally large.

Q. Do you deal in velvets?

A. No, sir.

Q. Do you deal in plushes?

A. No, sir; we have not for several years.
Q. Or satins?
A. No, sir; satins for dress purposes.
Q. Do you still sell to general jobbers out of town?
A. Yes, sir.
Q. What class of satins do you deal in?
A. Dress satins.
Q. You do not sell those satins to the millinery trade, do you?
A. No, sir.
Q. Those are satins for dresses?
A. Yes, sir.
Q. You do not sell any satins for millinery uses?
A. No, sir; none of these are made here; those are imported.
Q. There is such a class?
A. There is such a class and those are imported.
579 Q. Do you know where your goods go to that are sold through jobbers?
A. After they go beyond the jobbers it is surmise; after they get in their hands, that is their business; we do not ask any questions beyond that.
Q. Do you include jobbers in the millinery trade?
A. Yes, sir.
Q. In New York?
A. Yes, sir.
Q. And in the country?
A. Yes, sir.
Q. There are jobbers in the millinery trade, are there not?
A. Yes, sir.
Q. There are people who make it a special business of canvassing for sales in the millinery trade?
A. Yes, sir.
Q. You sell ribbons to that class of people?
A. Yes, sir.
Q. Do you know what the commodities are that are used in the millinery trade for trimming hats, bonnets, and hoods?
A. Yes, sir.
Q. Please enumerate some of the principal commodities that are used for trimming hats, bonnets, and hoods.
A. Ribbons, velvets, plushes, beads, passementre, flowers, feathers, buckram, straw braid, and ornaments. I do not know as I can remember any more now.
580 Q. There are large numbers of each of the class of articles that you have mentioned?
A. Yes, sir.
Q. Some of them have specific names to distinguish them and some have not?
A. Yes, sir.
Q. And new styles and patterns coming out all the while of each of the classes?
A. Yes, sir.
Q. I understand you to say you think about 15 or 20 per cent. of your

product of ribbons goes to the millinery trade. Where does the other 80 or 85 per cent. go to? Directly from you, I mean.

A. These class of houses, Dungan & Strouse, and all those millinery houses, their principal business is for ornamenting ladies' bonnets. They sell flowers and feathers, but the balance of the goods we sell to large jobbing houses, such as Joffray & Co., Clafflin & Co., and those houses who have no department for ribbons specially, and are not known as millinery houses. We sell to large retail houses, such as Marshall Field, Chicago; Stern Bros., New York; Sylvester & Co., New York; H. O'Neill, B. Altman & Co., and the house of John Wanamaker here, and Darlington & Runk.

Q. You sell to all that class of houses?

A. Yes, sir.

Q. Many of those houses that you name are general houses, dealing in all sorts of dry goods?

A. Yes, sir.

581 Q. And who themselves sell at wholesale, and have their distributing jobbers?

A. Some of them. Some of them are exclusively retail.

Q. Clafflin is not retail?

A. Jobber.

Q. Joffray & Co.?

A. Jobbers.

Q. Marshall Field and Co. is the same?

A. Both jobber and retailer.

Q. Calhoun & Co.?

A. They are jobbers. Theirs is a notion house.

Q. Those are the class of people to whom you sell the 75 or 80 per cent. you say does not go to the millinery trade?

A. Yes, sir; that is the various classes. Jobbers do not take them exclusively.

582 FRANK H. CHENEY, recalled and further cross-examined.

By Mr. TREMAINE:

Q. You accompanied Mr. Strange on the occasion of his visit to the Treasury Department, in May, 1888, that you spoke of?

A. Yes, sir.

Q. You made a similar visit, did you not, in 1883 or 1884, to Secretary Folger?

A. Yes, sir.

Q. You have been active from the time of the passage of this act, from 1883 or 1884, in resisting the classification of any ribbons at 20 per cent.?

A. That previous visit, a visit to Secretary Folger, was the one I made with you.

Q. That was not about ribbons. I do not mean on that occasion?

A. That is the only occasion I recollect now, of seeing Secretary Folger.

Q. Was there not a committee from your association sent to Secretary Folger on the subject of ribbons in 1884?

A. There may have been. I do not know. I do not recollect it now.

Q. The fact is, you have been active in resisting the classification of any ribbons at 20 per cent. since 1884?
A. Always.

583 JAMES BOOTH, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?
A. Paterson, New Jersey.
Q. What is your business?
A. Silk manufacturer.
Q. To what extent do you deal in silks?
A. A little over a million.
Q. Pieces?
A. Annually; yes, sir.
Q. Do you import them at all?
A. No, sir.
Q. Manufacture exclusively?
A. Yes, sir.
Q. How many mills do you own?
A. Two.
Q. How many hands do you employ?
A. I suppose 1100 to 1300—about 1200 I should say.
Q. Do you manufacture all varieties of ribbons?
A. Yes, sir; not all; brocades we do not manufacture. All kinds of fancy striped goods—anything new in that direction.
Q. Look at Wanamaker's samples that are before you, and tell the jury by what commercial designation they are bought and sold?
A. They come under the head of ribbons.
Q. Are they known by any other commercial designation?
A. There are fancy ribbons amongst them; they are known as fancy ribbons, also.

584 Cross-examination by Mr. TREMAINE:

Q. I show you sample, pattern 53, case 1159, and ask you if that ribbon has a specified name?
A. That comes under the class of a picot edge ribbon, called loop. There are several names for it.
Q. Give us some other names.
A. Called loop and picot; it goes under the name of picot edge.
Q. What is the other name?
A. Ribbon.
Q. What other name?
A. I do not recollect any other name.
Q. I understood you to say it had several other names.
A. There are two other names only.
Q. Are there any others?
A. I do not just think of any others.
Q. Please look at pattern 131. What is the specific name of that?
A. That I call striped velvet ribbon.
Q. Please look at pattern 159. What do you call that?
A. I would call that velvet ribbon.

Q. That is not plain velvet ribbon, is it?
A. It is satin on one side and velvet on the other.
Q. I show you pattern 233. What would you call that?
585 A. That is a fancy glace ribbon with satin edge.
Q. Those are the particular names by which those particular patterns of ribbon are distinguished in trade, are they not; as a general thing each ribbon has some specific method of designation, has it not?
A. Yes, sir; have to have a name for it.
Q. Have to have a name for each ribbon?
A. Yes, sir.

586 JAMES M. ERSKINE, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you reside?
A. Weehocking, New Jersey.
Q. What is your business?
A. Manufacturer of silk goods.
Q. To what extent do you manufacture and sell ribbons?
A. Nearly half a million.
Q. How many mills do you own?
A. One.
Q. How many operatives do you employ?
A. 250.
Q. Do you manufacture all varieties of ribbons?
A. Not all; a very large variety.
Q. Do you manufacture fancy ribbons?
A. To some extent.
Q. To what extent?
A. Fancy ribbons are the small portion in general manufacture. I should say about 15 or 16 per cent., perhaps 18 per cent., taking the seasons and the demands of fashions for 5 years.
Q. How many years have you been in the silk business?
A. Since 1871.
Q. Look at Wanamaker's samples that are before you and tell
587 the court and jury by what commercial designation they are bought and sold and known.
A. They are all known as ribbons, with this one exception, this galloon (pattern No. 313); ribbons and fancy ribbons.
Q. How long have they had that commercial designation?
A. Ever since I have known anything about them.
Q. How long is that?
A. Since 1871; 17 years.
Q. Have they ever, in your experience and knowledge, been known in trade by the commercial designation as trimmings?
(Objected to. Objection overruled. Exception by Mr. Tremaine.)
A. No; nothing but ribbons. I make these goods as a ribbon. These are ribbons. I do not make trimmings.
Q. Do you know whether there was in the year 1883 and prior thereto a commodity known to the trade, and bought and sold as such, under the name of trimmings?

A. No; I am not familiar with the millinery trade to any extent beyond ribbons.

Q. Look at the Wanamaker samples before you and state what proportion of the goods of which those are samples are sold for millinery purposes.

Mr. TREMAINE. Does he know?

588 Q. Do you deal in ribbons of that kind and quality?

A. Yes, sir.

Q. State what proportion of ribbons of the same style and quality are sold for millinery purposes?

Mr. TREMAINE. Of his product?

The DISTRICT ATTORNEY. Yes, of his product.

A. A large portion millinery. It is hard to tell; it is hard to give an estimate; I do not think more than one-half. In our experience, we have never made a fancy ribbon but what we could sell it to all trades. If it was in demand for one trade, it was in demand for other trades. If it was sold for one, it was sold for the other. In our experience we have never made for one trade but what we have sold it to all the trades.

Q. The stenographer did not hear you. I understand you to say that in your experience, if it was suitable for one purpose it would be suitable for another?

A. Most generally. I said we had never made fancy ribbons which we had sold to the millinery trade, but what they were sold to dry goods and notion trade.

Q. Equally for the millinery trade. Is not that what you said?

589 A. I believe we have sold the larger proportion to other trades than millinery.

Q. Is there any class of ribbon commodities that have any special adaptability for millinery purposes apart from all other purposes?

A. No; because all ribbons can be used for millinery

Q. If a given style and quality of ribbon is fashionable for millinery wear, state whether or not it would be equally fashionable for dress wear.

(Objected to. Objection sustained.)

Cross-examination by Mr. TREMAINE:

Q. You are a producer of ribbons?

A. Yes, sir

Q. And not a consumer, except for family use?

A. Producer and seller.

Q. Not a consumer?

A. To some extent.

Q. To what extent?

A. For my family.

Q. Excepting your family use?

A. That is all.

Q. You do not use them as a commodity for the purpose of manufacturing other commodities out of them, do you?

A. I sell them to manufacturers.

590 Q. Do you sell through a commission house, or direct from your own store?

A. We sell through the house of Luckemeyer, Joffray & Co.

Q. Luckemeyer & Joffray are large importers of silks and velvets, are they not?

A. Any dry goods.

Q. Is not that their chief business?

A. I do not know. It may be.

Q. They are general commission merchants, are they not?

A. Yes, sir.

Q. And importers also?

A. Yes, sir.

Q. They distribute your entire product of ribbons, do they not?

A. They do, under our direction.

Q. How long has that been so?

A. Since the 1st of January, 1887.

Q. Before that, where did you sell them?

A. We sold them ourselves, from our own store.

Q. Where?

A. 52 Green street, New York.

Q. What was the name of your house?

A. John Erskine & Co.; it is now.

Q. How much of your product of half a million of solk product per year is ribbon?

A. It is nearly all ribbons.

Q. How large a proportion of that product is fancy ribbons?

591 A. On the average I do not think more than 15 or 16 per cent.

Q. Have you any method at all of forming a fair estimate, for your own opinion, as to what proportion of that 15 per cent. is sold to the millinery trade?

A. No, sir; not that is sold to the millinery trade.

Q. You can not sell?

A. No.

Q. The people who would know that would be Luckemeyer & Goffray, would they not?

A. No.

Q. They would be their salesmen?

A. No; I understand your question to ask what proportion is sold to the millinery trade.

Q. I asked you if you had any basis to form an opinion for yours as to what proportion of that 15 per cent. that you say is fancy ribbon is sold to the millinery trade. I understood you to say you had none.

A. Yes, sir; we had; I distinctly said we had—we have the salesmen.

Q. Those salesmen are Luckemeyer's & Joffray's salesmen?

A. Part of them, and part of them ours.

Q. They act under their direction?

A. No, sir; they act under our direction.

Q. The deliveries and sales are all made by their orders?

A. No, sir; they are made by ours—one of our firm.

592 Q. Do not Luckemeyer & Goffray get a commission on every dollar of the sales?

A. Yes, sir; that is all they do get.

Q. Do they not do anything for that?

A. They give us store rent and facilities they have there, and the use of their salesmen.

Q. And make advances?
A. No; never.
Q. Do not make advances?
A. They would be very glad to, I presume. They never have to us.
Q. They get a commission?
A. They get a commission.
Q. Have you any knowledge what houses, by name, they sell to?
A. I can tell you the houses that our goods are sold to.
Q. Name some.
A. They are the familiar names you have heard here, the same houses: Mills & Gibbs, Calhoun, Robbins & Co., Toft, Wheeler & Co., Hill Bros., John B. Fowler & Co., Carson, Berry, Scott & Co., of Chicago. Do you wish more? We sell the entire trade; I can enumerate them.
Q. You mentioned Joffray?
A. Yes, sir.
Q. All those houses are general jobbers?
A. Yes, sir.
593 Q. General dry-goods merchants?
A. Yes, sir.
Q. Do you sell to Sullivan, Drew & Co.?
A. Very little.
Q. What is their business?
A. Millinery.
Q. Hill Bros., millinery?
A. I think so; largely.
Q. Did you mention Johnson?
A. We may have sold to them; I do not remember, though.
Q. You mentioned Mills & Gibbs?
A. Yes, sir.
Q. They deal in laces and other millinery goods?
A. General dry goods. I do not think they deal in millinery.
Q. Do they deal in all kinds of laces?
A. I do not know.
Q. They deal in your ribbons, do they not?
A. Yes, sir.
Q. Hill Bros. are one of the largest millinery dealers in New York?
A. I think they are the largest.
Q. Do you sell to Worthington & Smith?
A. We have sold years ago; not recently.
Q. They are large millinery houses?
A. Yes, sir.
Q. Do you sell to any Philadelphia houses?
A. Yes, sir; we sell to Wannamaker, we sell to Bowen & Dun-
594 gan, and to Dannenbaum.
Q. You have seen all those Philadelphia houses represented here?
A. Yes, sir.
Q. You have been in court?
A. Yes, sir.
Q. They have all testified?
A. Yes, sir.

Q. What proportion of that 15 per cent. would you estimate goes to the millinery houses?

A. I think less than half.

Q. Do you include Wanamaker in that half?

A. Yes, sir.

Q. Which half is he in?

A. Either one you like. We do not do much with him—we have not done much with him.

Q. Which half would you put Hill Bros. in?

A. Millinery.

Q. You would not call it a sale for millinery purposes if you sold to Teft, Wheeler & Co., would you?

A. No, sir.

Q. The reason that you would not call it so is because they are general dry-goods merchants?

A. Yes, sir.

Q. They themselves distribute to the people who manufacture, do they not?

A. Manufacture and retail; yes, sir.

595 Q. Have you had enough mercantile experience to tell the jury what commodities are used for trimming hats, bonnets, and hoods?

A. Yes, sir; I think I can.

Q. Name some of the commodities that are extensively used?

A. Flowers, and feathers, and silk goods of all descriptions; ornaments and straw trimmings.

Q. You said silk goods of all descriptions?

A. There are satins, flowers, velvets, and ribbons. I know them generally. I am not familiar with the trade.

Q. Those are the principal commodities that are used to trim hats and bonnets?

A Yes, sir.

Q. What kind of silks do you make besides ribbons?

A. We have made a few tailor silks—coat linings.

Q. Do you make any other kind of silks, except ribbons?

A. No, sir.

Q. You know what tailors' trimmings are, do you not?

A. In a general way.

Q. What are some of those commodities?

A. Braids and bindings.

Q. What are some of the others?

A. Cords. I am not familiar with the trade.

Q. You know some of the commodities?

A. Yes, sir.

596 Q. What are they?

A. Coat linings, buttons, braids, and cords. I am not familiar with that trade.

Q. Do you know of dress trimmings?

A. Yes, sir.

Q. What are some of the commodities of dress trimmings?

A. Fringes and passementre work.

Q. Of what materials?

A. Chiefly silk.
Q. How long have these passementres *neem* used?
A. I am not familiar with them.
Q. You mentioned them; what do you know about them?
A. Only in a general way.
Q. They are dress trimmings, are they not?
A. Passementres?
Q. Yes.
A. I suppose so. I am not familiar with that branch of the trade.
Q. They are made of beads and silk?
A. Oh, yes; beads, and silk, and worsted, and cotton.
Q. Did you ever see one as far back as 1871?
A. One what?
Q. One passementre?
A. Certainly.
Q. An old article?
A. Yes, sir.
Q. They do not use that for trimming hats to any extent, do they?
A. I understand they use those on dresses.
597 Q. Do you not make ribbons for men's hats?
A. Not at present. We have in years past, but merely incidental; that is, we have sold ribbons that were made for the general trade. We have sold some.
Q. I mean ribbons that are adapated to the wear on men's hats?
A. Only where they can put any ribbons on men's hats.
Q. Would you put that on a man's hat for any commercial use [handing straw hat with red ribbon attached]?
A. I do not think so.
Q. Would you put such ribbons as those on men's hats for any commercial use [handing other straw hats to witness]?
A. I do not know. I have never trimmed hats. They might, possibly.
Q. What is your experience about that?
A. I never sold any such ribbons as that for men's hats to my knowledge.
Q. While you can put any ribbon on, commercially, that is hardly the fact. You were mistaken when you said you could put any ribbon on, commercially?
A. It is not generally done. They could put any on.
598 Q. As a mercantile commodity, it does not amount to anything?
A. No, sir; I should not think so.
Q. Are "A" and "B" hat ribbons?
A. I think those are hat bands.
Q. A hat band is a ribbon, is it not?
A. Not commercially known as a ribbon, or among the trade or among the weavers.
Q. It is a ribbon for all that?
A. It is a ribbon. We do not know them as a ribbon.
Q. What is a ribbon?
A. A ribbon is a narrow weft of silk used for ornamenting purposes.

Q. Do exhibits "A" and "B" answer that description?
A. No, sir.
Q. You think it does [indicating]?
A. No; I do not think it does.
Q. Why; because it is made of cotton?
A. It is made of other material. It is made in a different mode.
Q. Do you not know ribbons are made both of silk and cotton?
A. Yes, sir; they can be made of silk and cotton. I never saw them all cotton.
Q. That is not all cotton?
A. It is not; a great deal of it.

599 By the DISTRICT ATTORNEY:

Q. Do the ribbons which are used for trimming hats differ from the ribbons used for trimming dresses to such an extent as to distinguish to people in the trade, one class of commodities from the other?
A. Yes, sir; I think they do, at times. They can make a novelty that will be peculiarly adapted to a hat, or peculiarly adapted to the style in general.
Q. Look at the samples before you [Wanamaker's sample] and tell the jury whether they are more adaptable for hat purposes than for dress purposes.
(Objected to. Question withdrawn.)

600 SAMUEL CLARKSON, sworn and examined.

By the DISTRICT ATTORNEY:

Q. What is your business?
A. Manufacturer and importer.
Q. Manufacturer and importer of what?
A. Manufacturer of narrow textile fabrics and dress trimmings, passement'r'es, ribbons, and also importer of ribbons and dress trimmings, and military goods.
Q. What is your firm?
A. William H. Horstman & Sons.
Q. You do business in this city?
A. Yes, sir; and in New York.
Q. Where are your mills?
A. Fifth and Race streets.
Q. About how many operatives have you in your employ?
A. About 800.
Q. What is your production in the way of manufacturing, per year?
A. I suppose it would run about a half a million.
Q. Will you please look at the Wanamaker samples that are before you? What is the commercial designation of those samples?
A. Ribbons.

601 Q. How long have articles similar to those been known as ribbons?
A. Ever since I have been in the business.
Q. How long is that?
A. I have been connected with the firm of Horstman 27 years.
Q. Have you ever known them by any other designation than that?
A. Never.

Q. Have you ever known them as trimmings for making and ornamenting hats?

A. Never.

Q. To whom do you sell your products; I am now speaking of ribbons—what class of trade?

A. To the trade generally; most to the fancy-goods trade.

Q. You also sell them to milliners, do you not?

A. No, sir; we have not a milliner on the books. We never sold a piece to a milliner.

Q. And yet you make ribbons like these, do you not?

A. Yes, sir; we make ribbons similar to those.

Q. And yet you have not a milliner on your books?

A. No, sir.

Q. Do you import ribbons of that character?

A. We do.

Q. And have for how long?

A. Ever since I have been in the house. The house has imported since 1820.

602 Q. To whom have you sold the ribbons that you have imported that were like these?

A. The ribbons that we have imported similar to these—that is the high-colored ribbons, what I would call fancy ribbons—we have used as consumers of ribbons, as if the ribbon was the raw material.

Q. You have used them as consumers, yourselves?

A. Yes, sir; as consumers, ourselves.

Q. What kind of ribbon do you call this green and white stripe [ribbon on basket]?

A. I would call that a fancy ribbon.

Q. Is that an imported or domestic ribbon?

A. I am not an expert. I should judge it was imported ribbon. I would like to say of my own knowledge.

Q. As a matter of fact, I suppose it is very difficult to tell the one from the other?

A. It is.

Q. Are the productions of this country rivalling those of the Continent of Europe?

A. Yes, sir.

Q. Both in styles, and color and effect?

A. Yes, sir. The firm I am with made the first ribbon in America in 1840, but they were very inferior to the imported goods. In 1852 the Franklin Institute awarded the house a gold medal for the American ribbons. At that time they were not equal to the imported. Now, in my judgment, they are equal to the imported. I can not tell them.

603 Q. Ribbons have become a very large item of manufacture in this country since 1860, have they not?

A. Yes, sir.

Q. Since the war?

A. Yes, sir.

Q. During the war?

A. Yes, sir; between 1862 and 1866, I think that 2-thirds of our whole product of the mill was in ribbons, but not one yard of those ribbons ever

went on to a bonnet or hat. They were made for ladies' waists and dresses. They were what are called belt ribbons—entirely for waists and dresses.

Q. Were they fancy or plain ribbons?

A. They were fancy, as far as color went, stripped or woven in ja'quard; if it was necessary to weave with a jacquard, they were woven with a jacquard. That meant a figure or a design. It might be expensive or inexpensive.

Q. Please tell me what is the difference between a plain ribbon, so called, and a fancy ribbon?

A. There is a distinction as to color, and there is a distinction as to design. You call a high-colored ribbon a "fancy." It is used for fancy purposes. I would call a ribbon of a jacquard weave, and where there was a number of colors introduced, and also a figure, something
604 like the bird designs that will be so popular this fall, woven with a jacquard and are always highly colored—those are fancy ribbons.

Q. Have you any experience or knowledge of what are called hat-bands and hat bindings?

A. Only known as hat ribbons. We manufacture those.

Q. You manufacture them, and they are known as hat ribbons?

A. They are known as hat ribbons; not as hat-bands. They are made for hatters' purposes.

Q. What are Exhibits A and B?

A. (Referring to Exhibit B.) I suppose they are used for a hat. In fact, I have seen hats trimmed with them—straw hats. Exhibit A is made for belting.

Q. You mean ladies' belting?

A. Yes, sir; ladies' belts. They were sold afterwards for hat ribbons at 10 cents on the dollar.

Q. First made for ladies' belts, and then afterwards sold for hat ribbons at 10 cents on the dollar?

A. Yes, sir.

Q. They are largely made of cotton, are they not?

A. Glazed cotton, and silk and cotton filling.

Q. Do you make hat-bands now?

A. Yes, sir.

Q. Are those ribbons [handing witness sample 10]?

605 A. That is not a ribbon.

Q. What do you call that on the box [handing box to witness]?

A. That is a ribbon.

Q. What kind of a ribbon do you call that?

A. That is a satin ribbon—satin corded ribbon.

Q. What do you call this [box No. 20]?

A. Fancy ribbon.

Q. What style?

A. Plain, with feathered edge.

By Mr. TREMAINE:

Q. Is that a feathered edge?

A. I call that a feathered edge. That is known in my mill as a feather-edge ribbon.

By the DISTRICT ATTORNEY:

Q. What style of ribbon do you call this pink and white [handing bureau cover to witness]?

A. Plain satin ribbon.

Q. What is that?

A. I should judge it belonged to a bureau cover. The ladies of the family would know.

Q. What are those pretty colors composed of, the pink and the olive?

A. Composed of silk.

Q. Silk ribbons?

A. What is known as silk ribbons.

Q. Can you tell whether they are made here, or are imported?

A. No, sir.

606 Q. What are the ribbons on this large waste-basket?

A. That is a satin ribbon.

Q. It came from your factory, did it not?

A. Yes, sir.

Q. These articles, too [referring to baskets]?

A. No, sir.

Q. Does this come from your factory [referring to mouchoir-case]?

A. They look like them.

Q. How are they trimmed?

A. They are trimmed with ribbons and laces?

Q. What do you call those ribbons they are trimmed with?

A. Plain satin ribbons.

Q. The same remark applies to that [indicating mouchoir-case]?

A. Yes, sir; ribbons on them for all kinds of fancy purposes.

Q. Are these ribbons [referring to fischue]?

A. Yes, sir; watered ribbons.

Q. Look at this [handing witness ribbon with prayer embroidered thereon]?

A. That is plain satin ribbon, embroidered.

Q. What is that [handing campaign ribbon to witness]?

607 A. That is a ribbon; that is printed or embossed. It is a satin ribbon for campaign purposes.

Q. A very large use for that?

A. Yes, sir; some more than others.

Q. Are you able from your experience to say what proportion of fancy ribbons are used for making and trimming hats as distinguished from all other uses of the same?

A. You say myexperience and observation, or experience only?

The DISTRICT ATTORNEY. Yes; your experience and observation.

Mr. TREMAIN. Are you able to say?

A. I think I can. From my experience and observation, I would say that if the ribbons were imported for bonnets only, that 75 per cent. less would come into the country. When you speak of them for all kinds of adornments for the persons of women from the crown of the head to the sole of the foot, I would say a very large proportion go on to the dress and shoe. We make a great many rosettes. There is where we are the consumers of ribbons for the shoemaker's trade. We make rosettes for shoes constantly, and there is where the narrow ribbon comes in.

Again, the florists, and undertakers use ribbons to a very large
608 extent, and *and* household decorations. It is very great. We are also in the upholstery business. I think I can speak from my experience of that fact.

Cross-examination by Mr. TREMAINE:

Q. Are all those exhibits which have been shown you just now of your own manufacture?

A. No, sir; some of them are.

Q. I speak of the ribbons?

A. Do you mean manufactured in our establishment?

Q. Yes.

A. Ribbons made on our loom?

Q. Yes.

A. No, sir; there is not one ribbon there that is made on our loom.

Q. Are not those campaign ribbons made at your place?

A. No, sir; I never saw them before.

Q. Do you print them?

A. I do. Not that particular design.

Q. This is not yours [referring to ribbon with prayer embroidered thereon]?

A. No, sir.

Q. You have not printed these?

A. No, sir; I never saw that.

609 Q. Is there any ribbon here at all that is your product?

A. No, sir.

Q. Is there any article here that is the product of your manufacture?

A. You mean made-up article?

Q. Any article?

A. That basket we make up for the trade—in our fancy goods department; that has been made up for the trade.

Q. The baskets?

A. Yes, sir; and there are other articles there.

Q. Did you make all these articles?

A. I suppose the majority. The one with the *olive* and white ribbon, I never saw. It never came from our establishment.

Q. All the rest did?

A. No, sir; I did not print the embroidered——

Q. I speak of the baskets?

A. No, sir; those two did not come from our place.

Q. All the others?

A. All those that I see tagged with white are our own manufacture.

Q. Those mouchoir-cases were made at your place?

A. Yes, sir.

Q. That bureau cover?

A. No, sir.

Q. That did not come from your store?

A. No, sir.

Q. When were these mouchoir-cases made?

610 A. They are to come out to the trade now. They were made in the last 2 or 3 weeks. The manager at the head of that department is making them constantly.

Q. How long ago were those made.

A. Within the last two weeks.

Q. Any more recently?

A. No, sir; none made more recently than that.

Q. Was it made within ten days?

A. I am not familiar enough with the department to say, but I know I gave orders to the head of the department to make up a fine line of goods to be sent to 25 travellers.

Q. When did you give those orders?

A. The 15th of July; it is a great labor to make those up.

Q. When did you give the orders to trim them?

A. They were given at the same time. The head of the department arranges that part.

Q. Were the trimmings selected?

A. According to their own taste, entirely.

Q. Who makes the purchase of the silk trimmings?

A. The head of the department, as a general thing, makes them.

Q. The head of the department knows what ribbon he wants?

611 A. Yes, sir; what she wants.

Q. She buys them at wholesale?

A. Yes, sir.

Q. Or at wholesale prices?

A. Yes, sir; or if we can use a sufficient quantity, we import the ribbon a season ahead.

Q. She adapts her orders to her particular uses and wants?

A. Yes, sir; as to her ideas of what is coming next season.

Q. She adapts her orders towards enhancing the commodity which she wishes to produce?

A. Yes, sir.

Q. As far as your knowledge is concerned, all ribbons are used to trim something with, are they not?

A. Yes, sir.

Q. Is it, or not, true that the special purpose for which a ribbon is to be used has some relation to its value as a commodity? Is that so?

A. Yes, sir; I think it is; you do not know what a ribbon is to be used for until it is applied.

Q. Sometimes you do?

A. No, sir; I do not think the importer or the jobber or the retailer knows what a ribbon is for until it is applied.

612 Q. The value is according to what it is to be applied. The use it is intended to be applied to has some relation to the value of it, as a commodity at wholesale?

A. Yes, sir; I have known ribbons, or you might call them galloons, but could say they were ribbons—I have known them to be imported at a high price, and afterwards I, myself, have had them put on lap-robes and horse-blankets.

Q. That was not the original purpose for which they were imported?

A. No, sir; they would not sell for the original purpose for which they were imported, and we afterwards sold them for any price could be got for them.

Q. They were diverted from their original purpose?

A. Yes, sir; but they were a ribbon, nevertheless.

Q. That has always been so in your experience of the trade?

A. Yes, sir.

Q. These campaign ribbons which you see now, does not their value depend upon their use for campaign purposes?

A. Yes, sir; if they do not get rid of them before the 4th of November they are of no account.

Q. Would they not thereafter have very large values in use for trimming hats and bonnets?

A. I cannot answer that.

613 Q. Do you not know that they would not as mercantile commodities sell with those pictures on them?

A. I would not like to have any for any purpose, after the 4th of November.

Q. Their life as a commodity would then expire?

A. Yes, sir.

Q. Tell me whether that ribbon [referring to ribbon with prayer embroidered thereon] in its present form, with the learned district attorney's petition embroidered thereon, is a commodity for trimming hats and bonnets?

A. You could not trim hats and bonnets with that.

Q. And at wholesale, in that form, it would not be a commodity for the millinery trade?

A. I do not know anything about that. I do not deal in millinery goods at all.

Q. Describe these ribbons that you say are adapted to shoe use—some of such ribbons?

A. It is a plain satin ribbon 5-eighths to three-quarters of an inch wide. Narrower than that, according to the size of the rosette that is to be made, and that is all drawn together and sewed in the middle by a sewing-machine, and is put together and made a rosette of.

Q. There are some ribbons that could not properly be used for that purpose?

A. It depends altogether on the size of the rosette.

614 Q. Could you use a ribbon that was 4 or 5 inches wide with advantage?

A. Yes, sir; we have used ribbons 4 or 5 inches wide for rosettes for theatrical people.

Q. I mean for shoes?

A. For theatrical people. We are large dealers in theatrical goods.

Q. Theatrical trimmings?

A. Yes, sir.

Q. What class of goods?

A. Galloons, passementre—any narrow textile fabric—anything that will run from an 8th of an inch to 6 inches.

Q. You deal in a good many kinds of trimmings?

A. Yes, sir.

Q. You deal in military trimmings?

A. Yes, sir.

Q. You deal in upholstery trimmings?

A. Yes, sir.

Q. Those trimmings are made of a great many different materials?

A. Yes, sir.

Q. Of silk, cotton, and metal?

A. Almost everything you can conceive of in the way of a thread.

Q. You make these materials of various kinds out of any kind of thread?

A. Yes, sir.

A. Made into a fabric of a figure?

A. Yes, sir.

Q. Tell us about military trimmings. How many kinds of articles are there classed under military trimmings?

615 A. I do not think I could enumerate them. We have a half a dozen catalogues that represent 100 pages each—600 pages—classified as military goods.

Q. All trimmings?

A. All trimmings. For major-general epaulettes down to the cords on pantaloons for midshipman.

Q. They are all trimmings in the military trade?

A. Yes, sir; either Army or Navy.

Q. There are a very large class of upholst'ry trimmings, are there not?

A. Yes, sir.

Q. You deal in those classes?

A. Yes, sir.

Q. An infinite variety of goods?

A. Not as large as in the military, but still very large.

Q. Each different trimming has a different name, I suppose, by which it is distinguished?

A. Yes, sir.

Q. And catalogued?

A. Yes, sir.

Q. Do you not catalogue your ribbons?

A. We do to a certain extent. They are catalogued in that basket; that basket is photographed. In selling goods from New York to San Francisco and from Canada to New Mexico we can not send travellers everywhere, but if they ask for baskets, that is photographed and the photograph is sent.

616 Q. That is, the catalogue shows the use of the ribbon?

A. Yes, sir; the use of the ribbon.

Q. You sell the ribbons for that use, I suppose?

A. Suppose that a store-keeper buying a basket would afterwards send for a ribbon to trim the basket to suit themselves. We sell the baskets trimmed or untrimmed.

Q. You do not sell bonnets trimmed or untrimmed?

A. No, sir.

Q. Do you sell men's hats trimmed or untrimmed?

A. Only military.

Q. You sell them trimmed or untrimmed?

A. No, sir.

Q. You sell the trimmings separately?

A. We do not sell any hats for the military officers or for the Navy unless they are trimmed up.

Q. You sell shoulder-straps?

A. Yes, sir.

Q. Trimmings for the hat separate from the hat?

A. I do not know, in my experience, that we ever sold a hat for a military officer, or for any officer, without its being trimmed. The hats for all Masonic lodges, and all hats are trimmed.

Q. I understood you to say that our production of ribbons now rivals the production of Europe in that respect?

617 A. Do you mean the quantities?

Q. No; I mean the quality.

A. Yes, sir; with the exception of a few ribbons that are woven in Lyons or St. Ettienne where the Jacquard process of weaving has become so perfect. I have seen samples from those points that we can never rival. Those ribbons are worth from $10 to $20 a yard.

Q. There has been a very great advance since 1870 in the domestic scale of product?

A. No doubt about that.

Q. The last 15 years particularly has witnessed special progress, has it not?

A. I do not know. Not as large as it did 10 years previous to that.

Q. But in the meanwhile the price of the ribbons has been continually decreasing in this country, has it not?

A. Yes, sir.

Q. And the production increasing?

A. I went out of it. I do not know about my friends.

Q. The importations have been increasing?

A. No, sir.

Q. In proportion to the total consumption?

A. No, sir.

Q. And the domestic product has beeen increasing?

618 A. I do not believe the domestic product has increased with the wants of the population or the increase of the population.

Q. It has increased in its aggregate?

A. I think it has.

Q. Did I understand you to stay that you had ever manufactured such ribbons as these fancy ribbons (referring to Wanamaker's samples)?

A. A ribbon that we call a feathered edge we have manufactured. We manufacture ribbons similar to pattern 153.

Q. What else?

A. I have manufactured ribbons similar to 308 without being watered.

Q. Among those samples those are the only two ribbons that you identify as corresponding exactly to your manufacture?

A. Yes, sir; similar.

Q. Similar to your manufacture?

A. Yes, sir.

Q. When was it that you did manufacture those two particular species?

A. In 1852.

Q. How long did you manufacture them?

A. As long as we could make money on them. It was not long.

Q. How long did you manufacture?

A. I suppose 18 months, covering the whole thing.

Q. That is away back in 1852?

A. Yes, sir.

Q. How much of a product did you produce of it?

619 A. I can not say of my own knowledge. I was not about at that time I only go by the records of the calculations that were made or the samples put into the book. We have them all intact.

Q. Is that all you can remember about the product?

A. That is all I can remember.

Q. It was not a very large product?

A. No, sir. We were very proud to think that we made ribbons in America at that time. It was only a matter of pride with us.

Q. It was not a very large quantity?

A. No, sir; it was only a flea-bite.

Q. Did that flea-bite go on bonnets? Did you see what became of them?

A. They were not manufactured for bonnet ribbons at all; they were manufactured for dresses.

Q. Did they go in the fair?

A. They went on the fair.

Q. Are those all the fancy ribbons you can tell us about? Have you got those sample books?

A. Yes, sir.

Q. Is not that the source of your knowledge about them?

A. Yes, sir; certainly. I was not there when they were made;

620 but I am going over the books all the time. There they are; they are open to inspection of any person.

Q. How do you know what did become of those two particular patterns you did produce?

A. I see on the record, made for ladies' dresses, for ladies' dress trimmings. We never manufacture all ribbons for millinery purposes—never.

Q. Do you know whether it be a fact that people who deal in ribbons distinguish a class of ribbons for millinery use or not?

A. I can't say that; I know what I manufactured. I know what the party wants them for. I am making hat ribbons now for the largest concern in Philadelphia.

Q. Tell us about those hat ribbons.

A. That is a specialty. I know, as a matter of fact, when that ribbon is ordered by John B. Stetson it is intended to go on a hat.

Q. On a man's hat?

A. Yes, sir.

Q. Made of silk?

A. Yes, sir. If a cigar-maker comes to me and wants a ribbon made, and it is dyed a yellow or red—a narrow ribbon—I know, as a matter of fact, that that goes on cigars.

Q. It would be commercially useful on a bonnet?

A. No, sir; it would not.

621 Q. J. B. Stetson is one of the largest manufactu'ers in the city of Philadelphia?

A. I think so; yes, sir.

Q. Have you ever made anything like that (512)?

A. We do not make those.
Q. Are they ribbons?
A. Yes, sir; they are ribbons.

By the DISTRICT ATTORNEY:

Q. I understand you to say you do not make these articles?
A. No, sir.
Q. You do not deal in them at all?
A. No, sir; we would make them to order. We can make them, but we do not make them.
Q. Do you ever make articles like these for Mr. Stetson?
A. No; he imports those. There is another character of ribbon which we make for Mr. Stetson. He is willing to pay the price for them. Under the tariff of 1883 we can not make ribbons of that character.
Q. You can not make hat-bands?
A. No, sir; not under that tariff. But we can make ribbons for Mr. Stetson or anybody else who is willing to pay for putting up the looms and pay our price.
Q. Did you make these prior to the tariff of 1883?
A. They were made, but not in my time.
Q. You can not make them now?
A. No, sir.

622 By Mr. TREMAINE:

Q. You know what they are used for?
A. Yes, sir. There is one there looks like a binding. It is really not intended for a hat. We had that in our notion department.
Q. With that exception it is a class of ribbons that goes into Mr. Stetson's trade?
A. No, sir; it is too common for him—not good enough.
Q. In other respects do they go to that class of trade?
A. Yes, sir; I should judge they go to that class of trade.

By the DISTRICT ATTORNEY:

Q. Are the articles which you make for Mr. Stetson all silk, or partly silk and cotton?
A. Partly silk and partly cotton. Mostly all silk. It depends altogether what weight of ribbon he wants.

By Mr. TREMAINE:

Q. And the character of the ribbon to be produced?
A. First class.
Q. That is an extensive establishment, is it not?
A. Yes, sir.
Q. Best goods, I mean?
A. Yes, sir.

623 Q. There are other classes of hatters who do not use quite such good goods?
A. There is no doubt about it. Around Reading—there is a manufactory there; I could not say what they are made of.

624 HENRY A. LOTH, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you reside?

A. New York City.

Q. What is your business?

A. Ribbon manufacturer and merchant.

Q. To what extent do you manufacture ribbons?

A. Six hundred thousand a year.

Q. Can you make an estimate of that in pieces?

A. No, sir; I make an estimate in dollars.

Q. How many mills does your house own?

A. One.

Q. How many operatives do you employ?

A. About 600.

Q. Do you manufacture all styles of ribbons?

A. We manufacture numerous styles. We do not manufacture all styles.

Q. Do you manufacture fancy ribbons?

A. We do, to some extent.

Q. Do you manufacture ribbons of the kind and quality indicated by Wanamaker's samples [handing one of Wanamaker's samples to witness]?

A. We have manufactured styles similar to the make of them.

625 Q. State to the court and jury by what commercial designation ribbons similar to those in quality and style would be bought and sold.

A. As ribbon; the general name is ribbon. They have specific terms to designate particular styles. For instance, there is one ribbon here would be a loop edge. The others would have different distinctions, according to their patterns. For instance, this one, velvet on one side, you would not call a gros-grain ribbon; you would call it a velvet. That is what I mean by the difference.

Q. How long have you been in the business of manufacturing?

A. Since 1876.

Q. During your business experience, have they ever, to your knowledge, been commercially known as trimmings?

A. No, sir; I am speaking from this fact: I sell ribbons; if those articles I sold were known as trimmings I would have to seek that class of buyers. The buyers I seek are ribbon buyers. When I go in a house I ask for the ribbon buyer. If you were to ask for the trimming buyer it would be quite another department.

Q. Are the ribbons of the quality and style indicated by the Wanamaker samples adapted chiefly for trimmings hats?

A. No; they can be used for any number of purposes. They

626 are so used. You will find this class of goods on hundreds of articles, I think, right in this city if you want to take the trouble to look for it. The display here shows a great variety.

Q. Can you state what is the proportion of the domestic and imported ribbon used in trimming hats, bonnets, and hoods to ribbon used for other purposes? Have you knowledge to state it?

A. Do you mean what we make, or what I do generally?

Q. Generally, from the result of your experience and observation—result of your experience as a business man?

A. I should think that not over 15 per cent. were used on ladies' hats and bonnets.

Q. Answer first if you think you can?

A. I think I can.

Q. If so, what proportion of the ribbon would you say were used for millinery purposes, domestic and imported?

A. I should say not more than 15 per cent. were used on ladies' hats and bonnets.

Q. What is the proportion of the ribbons similar to Wanamaker's styles would you say were used for trimming hats and bonnets?

A. I could not say what proportion, but I should say the smaller part.

627 Q. For example, take ribbon marked (No. 53); state to the court and jury what you, in your experience, would deem the chief use of that?

A. We have made a pattern that is almost identical with this one. We have sold it to almost all classes of trade. At the same time we sold it for hats and bonnets—at least, I presume it was used for that—we sold to people who I know did not handle millinery goods of any nature—such people as have lace goods for ladies' wear, and for trimming fancy baskets, and for decorations of different kinds. We made a pattern that is almost identical with this one.

Q. Of those patterns which you have in your hand, the one to which you have just alluded is one of the most popular, is it not?

A. It was in the spring of 1877. Just now it rather passé.

Q. In selling your goods to the trade, if you do not know the business of the person to whom you are selling, can you tell from the character of the ribbon for what purpose it is to be used?

A. No, sir; you can not; people who buy it can not tell it, either. They put it on their counters, and they sell to any one who comes along for any purpose they want.

628 Q. In other words, if you were selling to a person whom you knew was exclusively engaged in the millinery business you would presume it would be used for millinery purposes?

(Presumption of the witness objected to.)

Q. Do you know anything of straw goods, commercially?

A. No, sir; I never have.

Cross-examination by Mr. TREMAIN:

Q. You have seen ribbons used with straw trimming, have you not?

A. I never paid any attention to straw trimmings at all. It is entirely out of my line. I never see straw people. I only see ribbon people. It is my specialty.

Q. I understood you to say, in your opinion, that it is your estimate that about 15 per cent. (I suppose you mean per annum) of the total production of ribbon in this country, and the total importations, are used on women's hats and bonnets. You think that is about right?

A. I think so.

Q. What is your fair estimate, if you think you can make any, as

629 to the proportion of those totals of ribbons, foreign and domestic, which are used on men's hats?

A. When you come to ribbons for men's hats, I want to call your attention to one thing: we make ribbon generally; for instance, a fancy ribbon we make is used in summer time—that is, fancy stripes for men's hats, for those who are inclined to be a little more flashy in style than the ordinary; but that proportion is very small. We make ribbons for general sale.

Q. I am asking you whether you think you can form a fair estimate of the proportion of ribbons out of the aggregate foreign and domestic ribbons which are used on men's hats?

A. I am not in the hat business. I never have been. We do not make ribbons of that nature.

Q. You are not in the bonnet business?

A. No, sir; I am in the ribbon business; but the class of ribbons shown here do not come under the head of men's hats; it is out of the jurisdiction. They come under the ribbon trade. The ribbon you speak of for men's hats is another class of trade.

Q. Another class of ribbons?

A. Another class of trade than the ribbon trade.

630 Q. From your experience and observation, are you able to form any estimate of the proportion of ribbons out of the aggregate of the foreign and domestic ribbons which are used for men's hats?

A. I am not in the hat business.

Q. You have not answered my question?

A. I have answered it to the best of my knowledge.

Q. You have essayed to state from your experience and observation what you think is the proportion of ribbons out of the aggregate of foreign and domestic that are used upon women's bonnets, and you have given it as your opinion that about 15 per cent. of that aggregate as ribbons are used for that purpose. I ask you, whether you are able to form a similar estimate of the proportion of ribbons that are used for men's hats out of the aggregate?

A. No; I can not form any proportion.

Q. Are you able to give any estimate of the proportion that is used for boys' and children's hats?

A. No, sir; I do not think any one else can, either; unless you know how many boys and how many girls there were who bought hats.

631 Q. Upon what basis did you tell the jury that it was your opinion that about 15 per cent. of the aggregate of foreign and domestic ribbons were used on women's bonnets?

A. I will tell you on what basis I calculate. I calculate there are about three yards to 3 and a half yards used on a hat, and two pieces, 20 yards, on a dress. I should think that is about the average.

Q. 20 yards on every dress?

A. On the average. A great many use fifty and sixty, and I have known them to use as high as one hundred and fifty yards of ribbon on a dress.

Q. And that is the basis of your calculation?

A. That is the basis of my calculation.

Q. That is a very popular use of ribbons, is it not, to put 100 yards on a dress?

A. The use of ribbon is very popular.

Q. To that extent?

A. Not to 100 yards on every dress. I did not say so. I said 20 yards perhaps in the aggregate. I said I did know dresses that had as high as 150 yards. I do not think the popular use is 100 yards to every dress.

Q. Is the popular use 20 yards to every dress?

A. I should so estimate it.

632 Q. And that is the basis upon which you have made this estimate of 15 per cent., is it?

A. About that?

Q. Did you ever observe a ribbon that was put upon a dress, as to whether it had a cotton back or not?

A. No, sir; but from what I am told and have heard, I believe they have a cotton back. You do not get a chance to see the back of it. That belongs to velvet ribbons.

Q. When they sew a ribbon on a dress, is it necessary to expend the same amount of skill and labor and material on the part that is concealed as it is on the part of the ribbon that is exposed?

A. We have never made velvet ribbon with cotton back. I have nothing to say.

Q. Did you ever hear of a satin double-faced ribbon?

A. Yes, sir.

Q. Did you ever see a double-faced satin ribbon?

A. What is the difference between a double-faced satin ribbon and a satin double-faced ribbon, in your idea?

Q. Is there any?

A. I do not know of any.

Q. Is there any double-faced satin ribbon that is generally sewed upon dresses?

A. There has been, but the double-faced satin is passé at the present time.

Q. Is pattern 159 one of such ribbon?

A. No, sir; it is not. It is satin on one side and velvet on the

633 other. It is quite a different ribbon.

Q. Is it the method in which this ribbon is generally used to sew on a dress and conceal one side?

A. You can do it if you wish.

Q. Is that the way it is generally used?

A. No, sir; nor is any ribbon generally all sewed on. Some is sewed on and attached to the garment, and the rest is let loose for display.

Q. In trimming a bonnet is it not the fact that both sides of the ribbon are at some point exposed?

A. It may, and may not be. It depends on how you put it on.

Q. As a general way?

A. There is no general way. There are all kinds of ways.

Q. Is not that the fact, that generally both sides of the ribbon are exposed?

A. Not as a fact as I am aware of. There may be parts of both sides show; you may turn it. The different ways of putting the ribbon on any garment are almost without end.

Q. I understood you to say there are ribbon buyers?

A. Yes, sir.

Q. And that you have to go to the trimming department?

A. No, sir; I did not say that. I said on the contrary. I
634 said, you had to go to the ribbon department when you wanted to sell ribbons; that you did not go to the trimming department.

Q. By the trimming buyer you mean dress trimmings?

A. He might buy dress trimmings.

Q. What house did you have in your mind?

A. For instance, the house of John Wanamaker. When you go there to sell ribbons you see the ribbon buyer.

Q. Is John Wanamaker's a wholesale house?

A. I believe he sells wholesale as well as retail. They tell me he sells wholesale; so I suppose so.

Q. What other houses did you have in your mind?

A. Journay & Burnham, Leeper Bros., of Brooklyn, New York; Daniel & Sons, New York; Sylvester & , of New York; Homer, Le Boutillier, of Philadelphia; Partridge & Richardson, of Philadelphia, and large houses in Boston; P. H. White, of Boston.

Q. Do you sell all those houses?

A. Yes, sir.

Q. What do you mean by the trimming departments of those houses?

A. For instance, take Journay & Burnham, in Brooklyn.

Q. What do you mean by the trimming department?

A. For instance, Journay & Burnham make the best example.
635 They have a dress-trimming department, as you term it, or trimming department, and on this side is the ribbon department. The ribbons are kept and sold here, and the trimmings are kept and sold there.

Q. What are the commodities among the trimmings that are kept and bought there?

A. I am not in the trimming business. I am in the ribbon business.

Q. By trimming business, you mean dress trimmings?

A. I suppose so. Such as are generally known in the trade—fringes and gimps. Perhaps the general name would be passementres; a general line.

Q. They are put on dresses?

A. Yes, sir.

Q. When you want to sell ribbon, you do not go to the department they sell these trimmings at, do you?

A. No, sir; not in that house.

Q. In any other house?

A. No, sir.

Q. Who did you sell your ribbons to in Philadelphia during 1887?

A. We are selling most of the people here.

Q. Name them.

A. Wanamaker, Allen, Sharpless Bros., Sichel, Bowen, Dungan & Co., Dannenbaum Sons & Co., I. S. Custer, and I. S. Custer & Son, Stern, and some other people, I think. I believe we did some business with the Bennage & Elliot Stationary Co., if I am not mistaken.

636 Q. Are not all those millinery houses?

A. Homer, Le Boutillier & Co. have no millinery department.

Q. Are not all the rest millinery houses?

A. No, sir.

Q. Which is it?

A. Bennage & Elliot Stationary Co. handle stationary exclusively.

Q. Who else?

A. David Stern handles underwear; Homer, Le Boutillier & Co. have no millinery; David Stern is in the underwear business; I know he has no millinery; Partridge & Richardson have no millinery.

Q. Since when?

A. Have they millinery, then?

Q. Who else is not millinery?

A. I. S. Custer & Sons. The way I look at it, it is a general retail trade. Julius Sichel's business is not a retail trade; he keeps laces and braids and embroideries and goods which are outside of the millinery line.

Q. Does he not retail millinery?

A. Yes, sir.

Q. That is his principal business, is it not?

A. I do not know.

Q. You know that he sells hats trimmed and untrimmed?

A. Yes, sir.

Q. And that he sells trimming for hats?

637 A. I suppose he does.

Q. Go on and give us the rest. How about Sharpless Bros.?

A. Sharpless & Bro. have a millinery department. I never saw the millinery buyer.

Q. Allen is a milliner, is he not—George C. Allen?

A. He keeps millinery goods. Sharpless Bros. have a millinery department. I understand there that the millinery gentleman gets all his ribbons from the ribbon counter. I see the ribbon buyer. I do not see the millinery buyer at Sharpless'.

Q. Do you know Mr. Layton, from that house?

A. Yes, sir.

Q. Did you hear him testify to that?

A. Yes, sir.

Q. You do not know any more than he does about it, do you? Do you know more about that particular house's business than Mr. Layton does?

A. He is employed there.

Q. He ought to know more than you?

A. Yes, sir.

Q. Tell us some other houses that are not millinery?

A. I do not sell these people because they happen to handle millinery goods or not. I sell them because they buy ribbon.

Q. Are you familiar with the commodities that are generally used for trimming hats and bonnets and hoods?

638 A. I know some of the commodities that are used by the people who handle millinery goods.

Q. Are you familiar with the commodities that are generally used for trimming hats, bonnets, and hoods?

A. I guess I know some of them.

Q. Name a few of those principal commodities that are used for hats, bonnets, and hoods?

A. They have feathers, flowers, gauzes——

Q. Plushes?

A. I do not know if plushes are used or not. I think velvets come more in that class.

Q. Ribbons?

A. Ribbons and ornaments.

Q. There are velvets; there are ornaments; therea re ribbons, and there are laces which are used for purposes other than trimming bonnets and hats, are there not?

A. Yes, sir.

By the DISTRICT ATTORNEY:

Q. If a ribbon in any one season is adaptable, by being fashionable in color and style, to millinery purposes, state whether or not it is not in that season equally adaptable for dress purposes?

A. I should say yes. The same articles—ribbons—are generally used for dress purposes.

639 ALEXANDER H. CLARK, sworn and examined.

By the DISTRICT ATTORNEY:

Q. What is your business?

A. Wholesale millinery business.

Q. Where is your store?

A. 724 and 726 Arch street.

Q. What is the name of the firm?

A. I. S. Custer, Son & Co.

Q. Look at that directory, please [handing same to witness]; when did you get that card?

A. During the holidays.

Q. Got it in Wanamaker's store?

A. Yes, sir.

Q. Who from?

A. From one of the racks that are placed in different parts of the store; they have a rack for these books, which any one is supposed to take, if they want to.

Q. What kind of goods do you deal in at your store?

A. Silks, velvets, plushes, ribbons, flowers, feathers, laces, linings, ornaments, hats, bonnets, and all kinds of millinery goods.

Q. Do you deal largely in those articles?

A. Yes, sir.

Q. To what extent per year?

640 A. I can not say as to that. I can not give the amount.

Q. Please state whether or not, at the time of the passage of the act of March 3rd, 1883, and prior thereto as long as you remember, there were not a class of commodities commercially known as trimmings, used for the making and ornamenting of hats, bonnets, etc.?

A. Yes, sir; to the best of my knowledge there were such goods.

Q. Please look at the articles in that box and on those cards and state whether they are articles so designated [handing same to witness].

Mr. TREMAIN. Unless the learned gentleman will submit to the witness a package of articles which he claims constitute the entire class, I submit in respect to the order of proof, and as a fair and orderly examination of the witness, within the discretion of the court, that he ought not to be led, but should be asked to state what the commodities are.

The COURT. I understood him to ask that.

The DISTRICT ATTORNEY. I did.

Mr. TREMAIN. I submit that it is not the question my learned friend asks. He shows him a few article and asks him whether those constitute the class he described.

641 By the DISTRICT ATTORNEY:

Q. What are the articles embraced in that designation?

A. As hat trimmings.

Q. My question was, and you answered it in the affirmative, whether there were not a class of commodities commercially known as trimmings used for the making and ornamenting of hats, in 1883, and prior thereto, as long as you could remember. You said yes.

A. Yes, sir.

Q. I want to know what those commodities are.

A. There are a number of them.

Q. Enumerate them, if you please.

A. Silk and chenille ponpons, straw braids, trimmings, fancy laces, fancy gauzes, and many other little ornaments.

Q. Enumerate every article that was embraced in that designation.

A. Ribbons and flowers and feathers and silks and velvets and plushes.

Q. Please examine the articles contained in that box and on those cards, and state what they are and what they were called at that time.

A. (Referring to cards 4 and 12.) I call them straw trimmings; some of them are called laces; some entirely of hair, called hair trim-

642 mings and hair braids; some are silk and hair mixed. That is all I have to say about the card. (Referring to 354.) These are fancy braids and trimmings that we have used in the millinery business. These are straw *straw* ornaments and trimmings (referring to 355). That is called a straw trimming for making trimmed hats (referring to 358).

Q. What do you call it?

A. I do not know. It would be called willow—willow tissue (referring to 8491) that is hair braid; (referring to G, H, B) that is Highland braids; (referring to 357) these are fancy straw braids; (referferring to 3141) these are fancy straw and hair trimmings; (referring to 349) that is called willow, for making hat frames.

Q. Are those goods dealt in now to any extent?

A. They are not fashionable now.

Q. How long has it been since they were fashionable and used extensively?

A. To the best of my knowledge, 5 or 6 years ago.

Q. And preceding that time, were they extensively dealt in?

A. Yes, sir.

Q. You buy and sell ribbons do you not?

A. Yes, sir; I have charge of the ribbon department.

Q. What is the commercial designation of the articles that you sell?

A. Ribbons. I sell everything in that line.

643 Q. But in the department of which you have particular control?

A. Ribbons.

Q. Have they at any time in your experience had any other commercial designation or title than ribbons?

A. Not that I know of.

Q. At the time the articles that you have identified as being known as straw laces and straw trimmings and straw tissues, was it not the fact that at that time ribbons had their commercial designation as ribbons?

A. Yes, sir.

Cross-examination by Mr. TREMAIN:

Q. All of these articles on the cards and in the boxes just shown you are materials for making or ornamenting hats, are they not?

A. Yes, sir.

Q. In card No. 4 there are some 20 or 30 samples, are there not?

A. Yes, sir.

Q. Each of those articles represented by those 20 or 30 samples have different names, have they not

A. No; I don't think so.

Q. Some of them are braids?

644 A. That I described before. Laces and braids.

Q. Some of them are braids?

A. Yes, sir.

Q. Some of them are gimps?

A. Yes, sir.

Q. Which are gimps; show the jury.

A. I should call these gimps [indicating].

Q. The line of 7 samples you would call a line of gimps?

A. Yes, sir; these I should call laces [indicating line 7 samples].

Q. What would you call the next line?

A. Some on this next page I should call laces, and some braids. On the next page I should call laces; some hair, some straw and hair mixed together; some are straw and some are hair, and some are straw and hair together.

Q. Are there any gimps on card No. 12?

A. These I should call laces.

Q. All on card 12 are laces?

A. Yes, sir.

Q. Made of what?

A. Made of straw. There are one or two here that have hair mixed in with them.

Q. You spoke a little while ago of some laces having some silk mixed in, or did I misunderstand you?

A. I was just going over the items. We keep silk laces; there are none of them here.

645 Q. Among the commodities that you keep you have some silk laces?

A. Yes, sir.

Q. Those are not represented in these cards?

A. No, sir.

Q. Those were the articles that you used for trimming hats and bonnets and hoods?

A. Yes, sir; and so specified.

Q. Bonnet laces, for instance?

A. We call them laces. They use them for dress trimmings or bonnets.

Q. You mentioned velvets. Velvets are well-defined commercial commodities, are they not?

A. I think so.

Q. And are used for various purposes?

A. Yes, sir.

Q. Is there a particular class of velvets that have their use as trimmings for hats and bonnets?

A. No, sir.

Q. Is there a particular class of millinery velvets?

A. No, sir. I think any velvet can be used for either purposes.

Q. Do you keep all kinds of velvets among your commodities?

A. Yes, sir.

Q. Do you keep all kinds of ribbons among your commodities?

A. Yes, sir.

Q. Do you keep hat ribbons for men's wear?

A. No.

646 Q. You do not keep all kinds of ribbons; what do you call those?

A. Hat-bands.

Q. That is to say, anything that goes on a man's hat you call a hat-band?

A. Yes, sir.

Q. Anything that goes on a woman's hat, that is of the band nature, you call a ribbon?

A. No; there are many things put on that are not ribbons.

Q. What are the many things that are put on women's hats?

A. Velvets, silk, jets, flowers, laces, and ornaments.

Q. Any ribbons?

A. Many hats are trimmed without any ribbons at all.

Q. Are ribbons extensively used for trimming hats and bonnets?

A. Yes, sir.

Q. Is that one of their many extensive uses?

A. I say it is.

Q. Are you able to distinguish a ribbon that is a staple commodity for that purpose.

A. I think so.

Q. You can distinguish it by its style and character, can you not?

A. Yes, sir.

Q. Are fancy ribbons extensively used for bonnets and hats?

A. Yes, sir.

647 Q. Do you think you could tell when you see a fancy ribbon whether it is a bonnet ribbon or not?

A. I can tell whether it can be used for that purpose. It need not necessarily be a bonnet ribbon.

Q. You can tell whether it can be advantageously and economically, in a business sense, used for that purpose. Is that what you mean?

A. Yes, sir.

Q. In good taste and with business efficiency?

A. Yes, sir. More particularly with good taste. The price has nothing to do with it. The price of the article has not much to do with it.

Q. Look at the Wanamaker samples, and state whether you can pick out of those samples any ribbons that are suitable for trimming hats and bonnets?

A. They can all be used for that purpose.

Q. Do you buy ribbons at wholesale?

A. Yes, sir.

Q. Name some of the principal houses from whom you purchase ribbons?

A. From importers and manufacturers in New York City. It would be hardly worth while to go over them all.

Q. Do you sell these various commodities that you mentioned, for dresses as well as for hats and bonnets?

648 A. We do not ask to what purposes they go.

Q. Do you sell dresses?

A. No, sir.

Q. Do you sell trimmed bonnets?

A. Yes, sir.

Q. Do you buy untrimmed bonnets?

A. No, sir.

Q. You buy the bonnets trimmed?

A. No, sir; we trim the bonnets.

Q. Do you buy untrimmed bonnets?

A. Yes, sir; I do not buy them myself; the house buys untrimmed bonnets.

Q. And hats?

A. Yes, sir.

Q. And buy the trimmings to put on?

A. Yes, sir.

Q. And employees and operatives put the trimmings on those untrimmed hats and bonnets?

A. Yes, sir.

Q. Those purchases you make at wholesale?

A. Yes, sir.

Q. And your experience in that line of business and of the commodities has covered about how many years?

A. 15 years.

Q. Is it not true that each ribbon is particularly described in the trade by some specific name?

A. Yes sir; name or pattern number.

Q. Some designation by which it is distinguished from other ribbons?

A. Yes, sir.

649 Q. Is it not also true that the value of some ribbons depends upon their adaptability to particular uses; for instance, this [referring to campaign ribbon]?

A. That could be used to trim.

Q. Of commercial commodity?

A. Yes, sir.

Q. Name some of the purposes for which a campaign ribbon——

A. As it is in that shape?

Q. Yes, sir.
A. I know of no use in that shape.
Q. I mean with those figures upon it, in its present condition?
A. No.
Q. It only has one commercial use, for campaign purposes?
A. I should think so.
Q. Has this ribbon with an embroidered prayer a commercial value for a variety of uses, as it is?
A. As fancy work it might have. It might be sold as a fancy article.
Q. In its present condition it is not a staple commodity for trimming hats and bonnets, is it?
A. It may be in the fancy-goods line. I do not profess to know much about that.
Q. You would not put it on hats in its present condition?
A. No, sir.
650 Q. With that embroidery on it?
A. No, sir.
Q. Do you sell theatrical trimmings?
A. Not under that name.
Q. Under any name?
A. I don't know any trimming designated by that name.
Q. Trimmings for theatrical purposes?
A. I do not know what they are.
Q. You spoke of gimps. Are gimps made of various materials?
A. Yes, sir.
Q. Name some of the other materials besides straw?
A. Silk, cotton, straw, hair, chenille, beads; I guess that is about all.
Q. Are braids made of various materials?
A. Yes, sir.
Q. What are they made of?
A. The same materials.
Q. Are laces made of various materials?
A. Yes, sir.
Q. Same variety of materials?
A. Yes, sir.
Q. Worsted, also?
A. Yes, sir.
Q. Worsted and wool laces?
A. We do not sell any of that class.
Q. Are laces made of them?
A. Yes, sir; I know laces are made of worsted.
651 Q. Are tissues made of various materials?
A. Well, yes, sir. Silk, straw, and tinsel.
Q. Do you know of a special class of tinsel tissues that are used for hats and bonnets?
A. We did use some last year.
Q. What do you call them?
A. Tinsel tissue or cloth. Made entirely of fine tinsel material.
Q. It did not have a particular name?
A. It had a commercial name, but I have forgotten it.
Q. Tricotine?
A. Yes, sir.

Q. That was exclusively used for trimming hats and bonnets?

A. That is all I know it was used for.

Q. You have not pretended to enumerate all of the commodities by specific names that are used for trimming hats and bonnets and hoods, have you.

A. No; I do not think I could, right handy. It would require some thought.

Q. It would require a very large catalogue, would it not?

A. Yes, sir.

Q. In respect to those straw goods, when you have seen these used to trim hats and bonnets, have ribbons been exclusively used in combination with these straw trimmings?

A. They have been used at the same time.

652 Q. Was not that so when these straw trimmings were used?

A. Yes, sir.

Q. That has always been so during your experience, has it not?

A. Yes, sir.

Redirect examination by the DISTRICT ATTORNEY:

Q. Please look at pattern 70 and pattern 71, and tell me what they are?

A. Pattern 70 is a ribbon

Q. What kind of a ribbon?

A. A fancy ribbon.

Q. What do you call No. 71?

A. I would call that a fancy ribbon.

Q. Narrow width?

A. Yes, sir.

Recross-examination by Mr. TREMAIN:

Q. Is No. 71 a cigar ribbon?

A. Not to my knowledge.

Q. What kind of a ribbon is No. 71?

A. We call it a ribbon.

Q. What kind of a ribbon?

A. It is a silk ribbon; a fancy ribbon.

653 Q. Is that the same ribbon as is represented by any of the samples?

A. I should call it a fancy ribbon; just the same as those [referring to Wanamaker's samples].

Q. Is it the same width?

A. Oh, no; the width has nothing to do with it.

Q. Is it the same color?

A. Color has nothing to do with it.

Q. Is it the same in finish on both sides?

A. No, sir; it is what we call one-sided ribbon.

Q. Are those Wanamaker samples of ribbons one-sided ribbons or two-sided ribbons?

A. Some of them are one and some are what we call double-faced ribbons.

Q. Look at them and see.

A. I have looked at them.

Q. Show me one that is one-sided.

A. No. 313.
Q. Show me another.
A. No. 110, No. 137, No. 233. I guess that is all.
Q. The rest are two-sided ribbons?
A. What we call two-sided ribbons.
Q. These particular four that you have selected just now are not cotton backs, are they?
A. I did not go into that; no, sir.
Q. They are not cotton backs?
A. No, sir.
654, 655 Q. There is a finish on the back on these four pieces?
A. No, sir; it is what we would call the reverse side of the ribbon; it is not finished on the back. You would not properly trim anything with that side out of those four that I selected.
Q. There is silk on the back, is there not?
A. Certainly; it is made of silk.
Q. Entirely?
A. Yes, sir.
Q. Are numbers 70 and 71 cotton-back ribbons?
A. Let me see them. I think they are all silk. [After examining] I should say they were silk.
Q. Both of them?
A. No. 71, I think, has some cotton, but 70 I should say was all silk.
Q. Are the samples 71 bindings?
A. I don't know.
Q. What do you use them for?
A. We have not any like these.
Q. Did you ever see anything like these before?
A. Not that exact pattern. I class them as fancy ribbons.
Q. Did you ever see anything like No. 70?
A. I have seen similar ones; the same class of goods.
Q. In all your experience did you ever deal in ribbons identical with No. 71?
656 A. I dealt in fancy ribbons of that width.
Q. I did not ask that.
A. No; not that exact thing.
Q. In all your experience did you ever deal in ribbons identical with pattern 70?
A. No, sir.
Q. Do you know where those came from?
A. No, sir.
Q. Are they extensively used, within your knowledge?
A. This class of ribbons?
Q. No; that identical ribbon.
A. I know nothing about that identical ribbon.
Q. This particular ribbon, No. 71?
A. I know nothing about that.

657 EDWIN L. RITTER, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?
A. Philadelphia.

Q. What is your business?

A. Buyer of ribbons for Homer, Le Boutillier & Co.

Q. Where has the house its place of business?

A. 1412 and 1414 Chestnut street.

Q. Will you explain to the jury exactly the nature of your duties?

A. All ribbons that come into the house are bought by me.

Q. Do you have charge of their sale?

A. I have charge of their sale also.

Q. How many years have you been in the business?

A. In that department 9 years.

Q. Had you been in the ribbon business before?

A. No, sir; not any more than connected with the house in another line.

Q. Please look at the Wanamaker samples and tell the court and jury under what commercial designation they are bought and sold, and under what they are known.

A. They are known as ribbons.

658 Q. How long have they been known in your knowledge as ribbons?

A. As long as I have been handling them—nine years.

Q. Have you ever known them to be commercially known as trimmings?

A. No, sir.

Q. For what purposes do you sell your ribbons?

A. Sell them to the general public for whatever purposes they choose to make of them.

Q. Do you sell them for trimming dresses?

A. Yes, sir; extensively.

Q. For trimming hats?

A. Yes, sir.

Q. For other purposes?

A. Yes, sir; fancy work and upholst'ry.

Q. Is it possible to enumerate the many purposes that you will sell them for?

A. I could not.

Q. Could you give the jury an approximate estimate of the amount of ribbons you sell for dress trimmings as opposed to the number of ribbons you sell for hats?

A. About 20 per cent. goes to trim hats, bonnets, etc., of my sales. The balance goes for dresses and fancy work and upholst'ry.

Q. Does that apply to your fancy ribbons?

A. Yes, sir.

659 Q. Ribbons of the same quality and character as Wanamaker's samples?

A. Yes, sir.

Q. If a ribbon is adaptable by reason of being in any one season fashionable in color and general style for hat trimmings, state whether or not it is equally adaptable for dress trimmings.

A. All ribbons can be used for either purposes.

Q. Are not the color and style of hat trimmings determined to a certain extent by the trimmings for dresses?

A. They are.

Q. In other words, is it not a fact that women take the same style of ribbons at the same time?

A. Either that or a contrast.

Q. Tell the jury whether it is possible, by looking at the samples that you have in your hand, to determine whether goods of a like quality and style are adaptable only for millinery purposes.

(Objected to. Question withdrawn.)

660 Cross-examination by Mr. TREMAIN.

Q. Do you sell at wholesale?

A. No, sir; retail.

Q. You buy at wholesale?

A. We buy of the wholesalers and manufacturers; yes, sir.

Q. And in your store you sell dress trimmings?

A. We do.

Q. And piece-goods?

A. Yes, sir.

Q. And trim hats and bonnets?

A. No, sir.

Q. Untrimmed hats and bonnets?

A. No, sir.

Q. You do not buy the materials to put on hats and bonnets, and make them for yourselves, then?

A. No, sir.

Q. You deal in general dry goods?

A. Yes, sir.

Q. Do you sell ribbons that are used on men's hats?

A. No, sir.

Q. You only deal in ribbons that are used by ladies?

A. Whatever a lady can use it for, or for whatever purpose it would sell.

Q. You only look to the ladies' trade and custom for ribbons?

A. Yes, sir.

Q. Your attention has been directed only to that?

A. Yes, sir.

661 Q. What is the extent of the ribbon purchases of your house per year?

A. About $20,000.

Q. You sell them all at retail?

A. Yes, sir.

Q. How do you get at your idea that about 20 per cent. of your ribbon sales are put on hats and bonnets?

A. The proportion that is sold for bonnets, and ladies come and ask for ribbons for that purpose.

Q. When they come in, ask for ribbons for bonnets, what kind of ribbons do you generally show them?

A. It depends altogether on what character of goods they bring to match.

Q. Do you do it yourself?

A. No, sir; we have ladies for that.

Q. What do you know about that?

A. Because I am around the counter all the time, watching the sales, seeing what is taking, and what is not taking; what is desirable.

Q. Do the salesladies generally ask for what purpose they want it?

A. Not always.

Q. Do they, when they do not have any samples to match them?

A. A lady very often states what she wishes it for, when she comes in.

Q. Suppose she does not state it?

662 A. Then we might ask her for what purposes she desires it.

Q. The idea of the saleslady would be to pick out some ribbon to answer that purpose; would it not?

A. Possibly.

Q. Do you keep sash-ribbons?

A. We do.

Q. Is there any difficulty among your salesladies in distinguishing the sash-ribbons from other ribbons?

A. None.

Q. What other kinds of ribbons do you keep?

A. All kinds of plains and fancys; that is, not all kinds, but a fair sprinkle of fancy and satin goods.

Q. About how many thousand dollars' worth of fancys do you buy a year?

A. The fancys are a small proportion. That is, the particular fancys.

Q. About how many thousand?

A. If you call all these fancys, I suppose half of the purchases has been made of that character.

Q. Do you mean to say your purchases have been as many as $10,000 a year, for instance?

A. Yes, sir; if you include 7-eighth satin edge ribbon as fancy.

Q. What do you include?

A. Satin edge and crown edge.

663 Q. Is there any satin edge there (referring to samples)?

A. Yes, sir.

Q. Any crown edge?

A. No crown edge; I see picot; velvet.

Q. You include velvets?

A. Velvet ribbons; yes, sir.

Q. So you think with that style of ribbon you buy about $10,000 worth a year?

A. Yes, sir; I think so. We did last year.

Q. Of that particular style of ribbon—of that $10,000 worth—about how much is it your idea goes to make and trim hats and bonnets?

A. About 20 per cent.

Q. 20 per cent. of that $10,000?

A. 10 per cent. of that particular $10,000; 20 per cent. of our entire amount.

Q. What proportion of your fancy ribbons?

A. About 10 per cent. of the facy ribbons.

Q. Do you mean 10 per cent. of the whole?

A. You asked me how many, about, including picot and fancys, plain

ribbons, or fancy—how many of that proportion of the department went to trim bonnets. I say 10 per cent. of that portion. Allowing
664 the other half of the department in plain ribbons.

Q. What proportion of the plain ribbons goes to trim hats and bonnets?

A. About the same amount.

Q. How do you get at that?

A. By the proportion—how much is sold to a bonnet, and between that and a dress.

Q. How do you find that out? How do you know what proportion is sold for a bonnet?

A. Take two yards for a bonnet, and last spring they took from 3 to 10 pieces for a dress.

Q. That is the only way you get at it?

A. That is the only we have of getting at it.

Q. How do you make that estimate?

A. Al' ways. We do not cater particularly to look further after the millinery trade than to have ribbons that will suit all trades.

Q. So that you do not make a specialty of the millinery trade?

A. No, sir; we have ribbons that will try to suit the public in general for any purpose.

Q. Do people buy ribbons at wholesale of you for the purpose of using them to trim hats and bonnets?

A. I suppose you call it wholesale. If any of the manufactur-
665 ers run short on their own stock and want to match up, they get 5 per cent. off of sales more than any customers. That is to fill up their own stock on some special color. That is the only way.

Q. Name any very large millinery establishment in Philadelphia which buys in considerable quantities ribbons of you for their particular use?

A. I could not name any particular one. None buy much. They only match up. Mrs. Gallagher on Chestnut street.

Q. She matches up, once in a while?

A. John Wanamaker matches up, once in a while.

Q. How is it with other people who buy ribbons for dress trimmings?

A. Buy to match, do you mean?

Q. Yes, sir.

A. We only sell principally to ladies and to their dress-makers.

Q. Who do you buy your ribbons from?

A. Manufacturers in New York.

Q. Name some of them.

A. Smith & Kaufmann.

Q. Are they manufacturers?

A. Yes, sir.

Q. Where is their factory?

A. New York City.

Q. Who else do you buy from?

A. Joseph Loth & Co.

Q. Where is their factory?

A. New York City. The Patterson Ribbon Company.

666 Q. Who is at the head of that?

A. I do not know exactly. There are three.
Q. Give me the names.
A. Mr. Hollingsworth is the manager.
Q. Who else is in that company?
A. Mr. Colt, and Mr. Coles, I think.
Q. Who else do you buy your ribbons from?
A. Manufacturers.
Q. Anybody. Who else do you buy your ribbons from?
A. James T. Johnson and Courturat & Co.
Q. Where are they?
A. New York City.
Q. Where?
A. New York City.
Q. Where in New York City.?
A. 97 Prince street.
Q. Are they manufacturers?
A. They are importers. J. T. Johnson & Co. are manufacturers.
Q. Who else do you buy largely of?
A. It depends on the seasons. Another house we buy a good deal of is Gardner & Friedenheic, on Grand street.

At one o'clock the court took a recess until 2 o'clock.

667 AFTERNOON SESSION, 2 P. M.

Cross-examination of EDWIN L. RITTER resumed.

By Mr. TREMAIN:

Q. You were asked by the district attorney whether you would be able to tell by examining the Wanamaker samples whether any of them were used only for bonnet ribbons, and we observed that you took the samples and made a careful examination of them before that question was withdrawn.
A. What was that question?
Q. The district attorney asked you the question just before I asked you some questions; whether you could tell by examining those samples whether any of them were used exclusively for bonnets, and we observed that you made a careful examination of each pattern. Why did you do that?
A. To see whether I could determine.
Q. Could you determine?
A. The question was not allowed.
Q. I ask you in respect to your ability?
A. I had not got through when the question was objected to.

668 Q. Could you tell by making an examination of ribbons whether that was so, or not?
A. Whether they were especially adapted?
Q. Yes.
A. I do not think I could.
Q. Why did you make any examination?
A. To see the general character of the ribbons.

669 HUGO FUNKE, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you reside?

A. In College Point, Long Island.

Q. What is your business?

A. Manufacturer of silk ribbons.

Q. To what extent?

A. About a half a million.

Q. In amount per year?

A. Half a million dollars in value.

Q. How long have you been in the business?

A. Since 1871.

Q. Do you manufacture all kinds of ribbons?

A. Yes, sir; many different kinds.

Q. Fancy as well as plain?

A. Yes, sir.

Q. Do you import them to any extent?

A. I have imported some ribbons for the last two or three years; a few.

Q. How many employees have you?

A. About 400.

Q. Look at these Wanamaker samples and tell the court and jury whether you have seen goods similar in quality and style.

A. Yes, sir; I did.

670 Q. State to the court and jury the ordinary commercial designation that goods similar to those in quality and style would be bought, sold, and known as?

A. As ribbons.

Q. Have you in your experience ever heard them called by any other commercial designation?

A. No, sir; with one exception, and that is this one [indicating].

Q. With the exception of No. 313?

A. Yes, sir.

Q. What would you call that; what commercial designation is given to that?

A. I call it passementre goods.

Q. I understood you to say that you have imported largely?

A. No; not largely.

Q. You have imported. Do you know what commercial designation is given to them by the house from which you buy abroad?

A. This [indicating]?

Q. Yes, sir.

A. Ribbon.

Q. Do you know what French word is applied to these Wanamaker samples by French dealers?

Mr. TREMAIN. Does that assume that one French word applies to all?

The DISTRICT ATTORNEY. The commercial designation.

Mr. TREMAIN. We do not object to that.

The WITNESS. They call it "ruban."

671 By the DISTRICT ATTORNEY:

Q. Can you state to the court and jury whether or not that is equivalent to the English word "ribbon?"

Q. That is the translation.

Q. Have you a sufficient knowledge to state what proportion of the domestic output of ribbons in this country and of the imported ribbons are used for millinery purposes—for hats and bonnets?

A. I can estimate it; I think I can.

Q. What would be your estimate?

A. About 20 to 25 per cent.

Q. Look at the Wanamaker samples in question and state what proportion of goods of which those are samples would be for millinery purposes.

A. That would be very difficult to say. There are some patterns that are used more for hats and bonnets than others, while others are used to a large extent more for dress trimmings and other purposes.

Q. Are the goods of which those are samples adapted to other purposes than to trimming hats and bonnets?

Mr. TREMAIN. We do not dispute that. They can be used for other purposes, of course.

672 By the DISTRICT ATTORNEY:

Q. Have you sold any goods of which those are samples?

A. Yes, sir.

Q. Or similar to those in quality and style?

A. I have bought some, and sold.

Q. Have you sold any to the plaintiff in this case?

A. One pattern; yes, sir; I did.

Q. Have you seen them since in his store. That is, the goods which you sold to him?

A. Of imported or domestic goods?

Q. Imported.

A. Yes, sir.

Q. Where did you see them?

A. On the ribbon counter.

Q. Tell the jury what commercial designation you would give to Exhibit B; what is the commercial designation of that class of articles?

A. There are different goods in this collection. This I would call hat ribbon—not a hat ribbon, but a hat-band, I would call it [indicating].

Q. One is marked No. 18 and the other No. 10. You call those hat-bands?

A. Yes, sir.

Q. Do you deal in articles of that class?

A. I have done so; yes, sir. The others I am not familiar with.

673 Q. How about Exhibit A?

A. I do not know much about these.

Q. Do you know anything about them?

A. No.

Cross-examination by Mr. TREMAIN:

Q. Have you dealt in all kinds of ribbons?

A. Not in all kinds.

Q. What kinds of ribbons have you not dealt in?
A. I don't know. Perhaps if you state their names then I could tell you better.
Q. Do they have names?
A. Well, some have names.
Q. What ribbons have you not dealt in?
A. Not such as that; I have not dealt in. I do not know what you call it [indicating].
Q. Such ribbons as these, Exhibit A?
A. Such ribbons which you last showed me; the last one.
Q. What other kinds of ribbons have you not dealt in?
A. I couldn't say.
Q. How long did you import?
A. From 2 to 3 years.
Q. What is the quantity you imported?
A. Comparatively small.
674 Q. In order to get styles and patterns for your own manufacture?
A. Also for that purpose?
Q. Was not that the principal purpose of your importation?
A. Well, it was one of the purposes.
Q. Was it not the chief purpose?
A. Well, yes, sir.
Q. Did I understand you to say that you sold some goods like these patterns to Wanamaker?
A. Yes, sir.
Q. Which one?
A. This one here [indicating]. That is No. 233.
Q. Do you make it here?
A. Not that; something similar I made here; yes, sir.
Q. Did you sell goods identical with pattern No. 233?
A. Yes, sir.
Q. To Wanamaker?
A. Yes, sir.
Q. Imported goods?
A. Yes, sir.
Q. How large a quantity?
A. Very small.
Q. How large a quantity?
A. May be $150 worth.
Q. What was that?
A. This year; the beginning of this year.
Q. Where did you import them from?
A. I think they came from France.
Q. Where?
A. From St. Etienne.
675 Q. Did you make any ribbon just like that?
A. Very similar.
Q. Did you sell some of that to Wanamaker?
A. I don't know.
Q. Did you sell any other imported goods to him besides that $150 worth of ribbon?

A. Not of those samples.

Q. I mean these samples. Did you ever buy fancy ribbons at wholesale?

A. I bought ribbons like these at wholesale, on the other side.

Q. In this country, I mean.

A. No, sir.

Q. Ribbons like these ribbons, like these samples, are extensively used to trim hats and bonnets with, are they not?

A. They have been used for the last two or three years for that purpose, but also for other purposes.

Q. And also for other purposes, but they have been extensively used for trimming hats and bonnets, have they not? Extensively?

A. Well, they have been used; how much they have been used I am not able to state, but they have been used for that purpose.

Q. To any considerable extent?

A. More so than at other times.

676 Q. Did you give the German for ribbon too? You gave the French for it. What is the German for it?

A. "Band."

Q. What does that mean?

A. "Ribbon."

677 EVERETT SELLERS, sworn and examined.

By the DISTRICT ATTORNEY:

Q. What is your business?

A. Buyer of ribbon.

Q. For whom?

A. I. S. Custer's Sons.

Q. How long have you been engaged in that business?

A. 18 years; since 1870.

Q. Is that your department, exclusively?

A. Yes, sir.

Q. Please look at the Wanamaker samples and examine them. [Witness does as requested.] What is their commercial designation?

A. Fancy ribbons.

Q. What has it been within the range of your knowledge and experience?

A. Fancy ribbons.

Q. Have they ever been known by any other title or designation?

A. No, sir.

Q. Will you look at these samples No. 70 and 71? [Witness does as requested.] What are they?

A. I would call these also fancy ribbons; cotton, filled with cotton, I think. No, they are not either; these are all silk; I thought they were cotton filled.

Q. That is pattern No. 70?

A. This also [indicating].

678 Q. Do you sell any ribbons, or only buy?

A. I do not sell them; I buy them. I have young ladies to sell them. I see them sold on my counter all the time.

Q. What kind of business does your firm carry on?

A. Millinery and fancy goods.
Q. Are they sold in any other way than as ribbons?
A. No, sir.
(No cross-examination.)

679 THEODORE F. LELAND, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you reside?
A. I reside in Jenkintown.
Q. What business are you in?
A. Ladies' dress-trimming business.
Q. Whereabouts?
A. No. 17 North 8th street, Partridge & Richardson.
Q. Do you sell ribbon exclusively for trimming dresses?
A. No, sir.
Q. For what other purposes do you sell them?
A. For a variety of purposes—a great variety of purposes.
Q. Have you a ribbon counter?
A. Yes, sir.
Q. And do you sell over that counter indiscriminately for all purposes?
A. All purposes.
Q. Look at the Wanamaker samples which are before you and tell the court and jury by what commercial designation they are bought and sold and known.
A. They are called all ribbons, except one here—a dress trimming. I would call that a dress trimming.
Q. No. 313 is called a dress trimming?
A. Yes, sir.
Q. How long have you been in the business?
680 A. I have been selling and buying ribbons 17 years.
Q. In all those 17 years did you ever hear any other commercial designation given to these articles or to similar articles?
A. No, sir.
Q. Have you ever heard them commercially designated as trimmings?
A. No, sir.
Q. Have you any way of determining in selling ribbons the purposes to which they are applied?
A. No, sir; excepting probably a few of them, in my judgment, would be used—I would buy them for hat or bonnet trimmings—a few of them for that purpose.
Q. You mean a few of those there in front of you?
A. They are used for that; yes, sir. We do not buy anything of that kind for hats and bonnets. There are very few here that I would buy for our general purposes, except for trimmings, for a variety of articles. We use a great many ribbons in manufacturing these articles—trimming them up for that purpose. We use a great many. We use a very few ribbons for hats and bonnets.
Q. State to the jury if a ribbon is adaptable, by reason of its color and general style, for the trimming of a hat, whether or not it
681 would be equally adaptable for the purpose of trimming a dress?

(Objected to as improper. Objection withdrawn.)

A. I do not know that.

Q. You testified, I believe, that ribbons are frequently used in trimming dresses, have you not?

A. Yes, sir.

Q. Can you tell the jury what would be an average quantity of ribbon for the trimming of a dress?

A. Well, this past season there has been—well, I have known a great many cases where there has been as much as 5 pieces, 10 pieces—that is, from 50 to 75 yards, on some dresses. It has been used very extensively as far as my experience has gone—very extensively.

Q. Do you know the average quantity of ribbon that would be used for the purpose of trimming a hat or bonnet?

A. No, sir; I do not.

Cross-examination by Mr. TREMAIN:

Q. Do you buy at wholesale?

A. No, sir.

Q. You buy at retail?

A. Yes, sir. To sell at retail; yes, sir.

682 Q. To sell at retail?

A. Yes, sir.

Q. And you deal in dress trimmings?

A. Yes, sir; almost exclusively.

Q. When did you begin to sell ribbons in any very large quantities, if at all, in your store?

A. We have sold them in large quantities for the last 3 or 4 years. These last three seasons there has been a very large quantity.

Q. That is, at retail?

A. Yes, sir; exclusively at retail.

Q. And before that time were you a large dealer in ribbons?

A. We have only kept ribbons 4 years.

Q. You have been in the dress-trimming business a good while, have you not?

A. I have been in the notion business.

Q. How long have you been with Partridge & Richardson?

A. Going on 5 years.

Q. Is not Partridge & Richardson's one of the largest trimming houses in Philadelphia, at retail?

A. I believe they are.

Q. Do they sell piece goods?

A. They sell dress-goods; yes, sir; a few that we put in this fall, only.

683 Q. What are the staple commodities that they deal in?

A. Ladies' dress trimmings.

Q. What are they?

A. Well, gimps, bindings, braids, passementre, fringes, buttons, dress ornaments, &c.; everything that makes up a lad*ie*'s dress.

Q. Anything to trim a dress?

A. Anything to trim a dress.

Q. That is what the dress trimmings are?

A. Dress trimmings, anything that goes on a lad*ie*'s dress.

Q. That is what "trimmings" means as applied to dresses?
A. From what I know of them, yes, sir.
Q. When it is applied to bonnets, what are trimmings? Do you in any of those trimmings at all?
A. No, sir; I know nothing about it.
Q. Did you ever deal in any of those samples there to any considerable extent?
A. Nothing to any considerable extent; no, sir.
Q. You never bought them at wholesale?
A. Well, I have bought a few fancy ribbons. A few fancy ribbons. A very small percentage of fancy ribbons.
Q. Do you know a millinery ribbon when you see it?
A. No, sir; I do not.

684 Q. Do you know a ribbon that is a dress trimming when you see it?
A. No, sir.
Q. Who buys your ribbon, or generally does?
A. I do.
Q. Whom do you generally buy them of?
A. We buy them of large domestic manufacturers and importers. Megroz, Portier, Grose & Co.——
Q. Do you mean to say you buy your largest quantities of ribbon from Megroz & Portier?
A. No, sir; *A. No, sir;* I was just beginning to give you the list.
Q. You buy the largest quantity of ribbon from domestic manufacturers?
A. Yes, sir.

684½ CHARLES D. MEDING, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you reside?
A. Patterson, New Jersey.
Q. What is your business?
A. Silk manufacturer.
Q. To what extent?
A. $600,000 per annum.
Q. How much of that is ribbon?
A. All ribbon.
Q. How many years have you been in the business?
A. Nearly seven.
Q. Do you import at all?
A. No, sir.
Q. Do you sell to jobbers or retailers directly?
A. I do both.
Q. Do you deal in all kinds of ribbons, fancy as well as plain?
A. I do; yes, sir.
Q. Look at the Wanamaker samples that are before you and state by what commercial designation they are bought, sold, and known?
A. Known as ribbons.
Q. Have they ever in your experience been known by any other commercial designation?

A. No, sir.
Q. What proportion of your output is sold for millinery purposes?
A. Of my own perhaps not more than 10 or 15 per cent.
685 Q. Do you manufacture ribbons of similar quality to these?
A. I have manufactured them.

By Mr. TREMAINE:

Q. Do you now?
A. I do now. Probably not like these, but similar styles.

By the DISTRICT ATTORNEY:

Q. The same class and character of goods?
A. Yes, sir.

Cross-examination by Mr. TREMAIN:

Q. I understand you to say that from 10 to 15 per cent. of your total product per annum is sold for millinery purposes?
A. Yes, sir.
Q. Who does that go to; what houses?
A. Aitkin, Son & Co.
Q. They are a general millinery and ribbon house, are they not?
A. Yes, sir.
Q. They do not deal in piece-goods, do they?
A. I think they do, to some extent.
Q. But their principal business is millinery goods, is it not?
A. Well, I would not say that.
686 Q. You have been in their store?
A. I have been in their store frequently, but I would not say that they sold most of their stuff to the millinery trade.
Q. Is their representative in court?
A. I think not.
Q. Were you here yesterday?
A. Yes, sir.
Q. Who else do you sell your millinery ribbons to?
A. I sell a few to O'Niell, and I sell a few to Johnson.
Q. John G. Johnson?
A. Yes, sir.
Q. Is that a large millinery house?
A. I should consider it so. I can't tell.
Q. Do you know Mr. Brett, of that house?
A. Yes, sir; I have met Mr. Brett.
Q. Is that a large millinery house?
A. Well, I have no means of knowing the extent of their trade.
Q. But you have seen the commodities in their warehouse?
A. I have never been in their store.
Q. Who else do they go to?
A. Those are the principal millinery houses that I have dealings with.
Q. What kind of ribbons do you sell to them, generally?
A. Well, I have sold plain satin and gros-grain, and I have sold fancy ribbons.
687 Q. And they would retail to the consumers?
A. I presume so.

Q. You do not sell directly to the consumer?
A. No, sir.
Q. As to the rest of your stock; do you sell through jobbing houses or commission houses?
A. I sell through a commission house.
Q. What house?
A. E. Odelman & Co.
Q. They are a large importing house?
A. In ribbons?
Q. No; I did not say in ribbons.
A. Yes, sir; they are a large importing house.
Q. They import ribbons?
A. I do not know that they have to any consequence for years.
Q. They used to?
A. They used to. They are a large house.
Q. Do they take all your product?
A. Well, they sell nearly all of my product; yes, sir.
Q. And they get a commission for doing it, and they distribute it throughout the country as best they can?
A. Yes, sir.
Q. Has your production been $600,000 every year for 7 years past?
A. No, sir.
688 Q. How many years has it been as large as that?
A. Perhaps 2 or 3 years; 3, I think.
Q. And how was it before?
A. Well, it gradually went up.
Q. The millinery demand is an important factor in your business, is it not?
A. It is not in mine. I sell principally to the dry-goods trade.
Q. Can you not give some other dry-goods houses besides those millinery houses that you mentioned that you sold to?
A. Yes, sir; Marshall, Field & Co.
Q. Do you sell to them?
A. Yes, sir.
Q. Are not those sales made through Odelman & Co.?
A. Yes, sir.
Q. I am speaking of others except Odelman.
A. Well, I don't quite understand you.
Q. Did I understand you to say that you sold direct to Johnson & Aiken & Son and Miller?
A. No, sir.
Q. Odelman is the distributing agent even for that supply?
A. I have sent goods direct to some of the parties.
Q. How large a proportion of your product the last year, 1887, were these fancy ribbons?
A. Those of last year, a year back from the present date?
689 Q. Yes; about that time.
A. I should say not more than $60,000 worth.
Q. Do you know what houses they went to?
A. Yes, sir.
Q. Whom did they go to?

A. There were a few went to Aitkin; a good many went to Marshall, Field & Co.; some went to San Francisco, and a few went to Boston.

Q. What house in Boston?

A. Brown, Durell & Co.

Q. Is that all you know as to where they went to?

A. That is all.

Q. Are not Brown, Durell & Co., of Boston, millinery houses in Boston?

A. We consider them slightly so.

Q. They have two departments?

A. That I could not say.

Q. They are large dealers in ribbons?

A. Yes, sir.

Q. And also in hats and bonnets?

A. That I couldn't say. I do not think they deal in them, as far as I know.

Q. Do I understand you then to testify that only about one-tenth of your production of last year corresponds to those samples?

A. Certainly not more than that.

Q. How was it the year before?

A. It may have been $75,000 the year before, but I do not think so.

690 Q. I mean what proportion?

A. Well, that would be 12½ per cent.

691 WERNER ITCHNER, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. Philadelphia.

Q. What is your business?

A. Manufacturer and importer of silk ribbons.

Q. How long have you been in that business?

A. I have been in the importing business since 1859, and went in manufacturing since 1865.

Q. Have you dealt in all varieties of ribbons?

A. Not with the importers. I only had some consignments of low-priced goods from Switzerland imported.

Q. How, as a manufacturer?

A. As a manufacturer I have made most all kinds of ribbons.

Q. Fancy as well as plain?

A. Fancy as well as plain.

Q. Look at the Wanamaker samples that are in front of you, and state to the jury by what commercial designation they are bought, sold, used, and known?

A. Ribbons; except this one, I don't exactly know.

Q. That is No. 313. What did you say about that?

A. I don't know what they call it exactly.

692 Q. Have you ever in your commercial experience known them to have been called by any other commercial designation?

A. No, sir.

Q. What is the extent of your business? What is your output?

A. Between $400,000 and $500,000. I mean manufacture.

Q. Do you know what proportion of your out put is used for millinery ribbons?

A. I do not.

Cross-examination by Mr. TREMAIN:

Q. How largely have you imported in the last few years of ribbons?

A. None at all in ribbons. Only piece ribbons the last few years, except the last few cases I had, about four years ago.

Q. They were ribbons?

A. They were low-priced shop ribbons, what they are called, mostly cut—seven-eighths cut; not shop ribbons, but only an edge.

Q. Brought from Switzerland?

A. Consigned to us from Switzerland.

Q. Who do you sell them to; what class of dealers?

693 A. We finally had to sell them at auction. We couldn't sell them any more at all; hardly any of them.

Q. You paid duty on them?

A. I did.

Q. Under protest?

A. I did.

Q. And got the money back?

A. I did; because they have been cotton goods. They were called shop goods in the invoice, but it all got through a mistake.

Q. The Government put a duty on it of 50 per cent.?

A. Yes, sir.

Q. And you claimed that it should only be 35 per cent.?

A. Yes, sir.

Q. Because cotton was the chief value?

A. Yes, sir.

Q. And they were cotton ribbons?

A. Yes, sir; they were cotton ribbons.

Q. Who do you send your product of manufactured ribbons to—what houses?

A. Well, we retail them ourselves in our store, and in New York. We have a store here, and a store in New York.

Q. Where is the store here?

A. 712 Market street.

Q. And where is your store in New York?

A. 57 Green street.

Q. Do you have your agent there?

A. My partner resides there.

694 Q. What is his name?

A. Alfred Streuli.

Q. Who is your principal customer in Philadelphia?

A. Well, it varies a great deal. It varies from season to season.

Q. Do you sell extensively to Kohn, Adler & Co.?

A. Not so much the last few years, any more.

Q. How large a proportion of your product corresponds exactly to those Wanamaker samples, if any?

A. Well, it is hard to tell. There are very few there that I have made anything like them, exactly. It is only some of those ribbons that are watered here, that I have made from time to time like it.

Q. You do not pretend to know what those samples are used for?

A. Well, I have a general idea of what they might be used for; that is all. Some of them I do not know. The one I referred to here I don't know, but the others, they can be used in bonnets or for trimming dresses, or for fancy articles.

Q. For aught you know they may be exclusively used for any of these purposes?

A. Yes, sir; for all I know.

Q. Was your product last year as much as it was this? Has it been $400,000 or $500,000 a year for several years past?

395 A. No; we have increased a little. It used to be only up to about $40,000.

Q. You have increased it in the last two or three years?

A. Yes, sir; not so much on ribbon as on piece goods.

Q. I am speaking of ribbons.

A. Well, I put the whole of that amount.

Q. What proportion of your $500,000 output is ribbon?

A. Very nearly three-fourths.

Q. You make a great many more ribbons now than you did in 1883, do you not?

A. No; not in ribbons. We have not made much change in ribbons; we have added the piece goods since that time.

Q. What proportion of ribbons in the last year or two, of your output, are the fancy ribbons?

A. I should say about 20 per cent.

Q. Do you know who is your principal customer for those fancy ribbons?

A. The principal customer here for fancy ribbons has been Custers.

Q. And in New York?

A. In New York, we sell to the house of Bellangee, Kelly & Bennett.

Q. Did you hear I. S. Custer's testimony yesterday?

A. I did not.

By the DISTRICT ATTORNEY:

696 Q. That is the way the ribbon is put up in the roll, is it not (indicating)?

A. Yes, sir.

Q. Ten yards in one?

A. Yes, sir; that is the way it is put up.

Q. That is what is called moire ribbon?

A. This is a moire edge.

By Mr. TREMAIN:

Q. They sometimes come in a flat shape, do they not?

A. There may be some plush ribbons, because it would get hurt in rolling; otherwise they always come in that way.

Q. In bolts, I mean?

A. Some plush ribbon I have seen put up in that way in rolls, lengthwise, because they would get hurt in rolls, tight.

Q. What do you mean by plush ribbons?

A. This I call a plush back.

697 FRANCIS J. RUE, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Do you reside in Philadelphia?

A. Yes, sir.

Q. How long have you lived here; all your life?

A. Pretty much.

Q. What is your business?

A. The silk and ribbon business.

Q. What is your business now?

A. The sale of silks and ribbons for Hamill & Booth, Paterson, N. J.

Q. You are the agent for that mill in this city?

A. Yes, sir.

Q. How long have you been so occupied?

A. About ten years.

Q. And before that?

A. I was in the ribbon business, in connection with other goods, about five years.

Q. Formerly in the retail dry-goods business?

A. Yes, sir.

Q. In the white-goods business?

A. Yes, sir.

Q. And general fancy-goods business?

A. Fancy-goods business generally.

Q. Please examine the Wanamaker samples.

698 (Witness does as requested.)

Q. What is their commercial designation?

A. Ribbons.

Q. How long have they been known as ribbons?

A. As long as I can recollect.

Q. How long is that?

A. 25 years or more.

Q. Do you sell that character of ribbons to your customers in the city of Philadelphia?

A. Sometimes.

Q. What other kind of ribbons do you sell?

A. Besides these?

Q. Yes.

A. We sell satin, gros-grain, and all the various kinds of ribbon that we make—all the various kinds of ribbon that we make from time to time as fashion demands.

Q. Do Hamill, Booth & Co. make all kinds of ribbons, or have they made all kinds of ribbons since you have been connected with them?

A. I can hardly say they have made all kinds.

Q. Excepting what?

A. It would be very hard to make an exception. They make a great many various kinds of ribbon of a miscellaneous character—fancy ribbons and satin gros-grains and reversible laces and ties.

699 Q. Have they made ribbons of that character, style, and finish?

A. Similar.

Q. To whom do you sell ribbons in this city?

A. Well, we have sold them to nearly all of the large trade.

Q. When you say "large trade" you mean dry goods and millinery houses indiscriminately, or only dry goods or only millinery houses, which?

A. No; we mean both; the fancy goods trade, the dry goods trade, and the millinery trade, as well.

Q. How do you sell them; as ribbons, or in what other way?

A. Simply as ribbons.

Q. Of course you have no knowledge as to the purpose they intend to use them for?

A. We don't care very much, either.

Q. What proportion, as far as you can tell, are fancy ribbons as distinguished from plain ribbons used for the purpose of ornamenting hats and bonnets?

(Objected to. Objection overruled.)

A. I think a small proportion. I could hardly state intelligently the percentage, but the sale of fancy ribbons is comparatively small to the more staple kinds.

Q. What do you call staple kinds?

A. Well, I would call a satin edge somewhat of a staple kind;

700 something such as we see here.

Q. Such as that ribbon [indicating]?

A. That I would call a staple ribbon in the contradistinction to this [indicating]. These I would call somewhat staple in contradistinction to these [indicating]. These, I would call all fancy [indicating].

Q. As a matter of fact, do not the fashions change in regard to the use of particular kinds of ribbons at different seasons for ornamenting hats and bonnets?

A. Oh, yes; in the same season.

Q. So that in point of fact I suppose that in one season a plain ribbon may be used, and in another season a fancy ribbon may be used?

A. Yes, sir; sometimes, even the very same season they will switch right off on to some other; from a fancy to a plain or from plain to fancy.

Q. In the same season?

A. In the same season.

Cross-examination by Mr. TREMAIN:

Q. Is the entire product of Hammill & Booth's factory consigned to you to dispose of, as agent?

A. No, sir.

Q. Are all the ribbons sent to you to distribute?

701 A. All that are distributed in Philadelphia are.

Q. Not in New York?

A. My firm is a New York house.

Q. What is the name?

A. You used the word "consigned."

Q. I mean distributed.

A. I wish to answer correctly. The goods are not consigned to me. I am in the employ of Hamill & Co.

Q. You are the agent here—representing them here?

A. Yes, sir.

Q. Your son represents them in New York?

A. Well, he is with them in their employ in New York; they have a store there in New York.

Q. Can you state what proportion of their product of ribbons comes to you?

A. No, sir; I couldn't state that accurately, or intelligently.

Q. Can you state about how much does come to you of ribbons in the course of a year?

A. No, sir; the ribbons don't come to me.

Q. You take orders?

A. I take orders; orders are billed in the New York house.

Q. Do you take orders in advance of their manufacture?

702 A. Sometimes. Sometimes for immediate delivery.

Q. And sometimes anticipating a season?

A. Well, two months previous, or three months; a couple of months, possibly.

Q. Do you sell to Philadelphia millinery houses?

A. We sell to them all, pretty much.

Q. Dannenbaum's Son & Co.?

A. We do.

Q. Largely?

A. Well, considerable, sometimes. Some seasons more than others. It just depends upon what we have to offer.

Q. Do you make them to order for them?

A. We have done so.

Q. What kind of goods have they ordered?

A. Well, that is hard to answer; it is rather disclosing the private business.

Q. If you do not wish to answer, I don't care to press it. I will modify the question?

A. The only reason I prefer not to give that is because very often you don't care about it being known what kind of goods they want.

Q. About the classes is all I really wish to know. What classes of ribbons do they buy?

A. That they have bought?

703 Q. Yes; fancy ribbons.

A. Yes; they bought some satin-edge ribbon.

Q. And fancy ribbon?

A. You might term them, possibly, fancy. I would term them as the plain order of fancy ribbons. I have so designated them to the district attorney.

Q. Are they all fancy ribbons?

A. Well, they may be termed fancy, but I told the district attorney we should consider some of them the plain order of fancy ribbons, such as these edges and the cord edges and satin edges.

Q. All of these ribbons in trade are known as fancy ribbons?

A. Well, I presume they would be known as that, although in selling them we would speak of them as a little different.

Q. In selling them you would speak of them by specific names for particular ribbons?

A. Yes, sir; speak of the satin-edge moire, reversible border, and so forth.

Q. You describe the ribbon by some special description that would identify it. That is the trade usage, is it not?

A. Yes, sir.

Q. That is, in fact, the way one ribbon is distinguished from another for trade purposes, is it not?

A. The name of the ribbon. If you want a satin grosgrain it would be designated.

704 Q. And the width and color?

A. The width, certainly.

Q. Is it your experience, as a merchant, that one of the extensive uses to which fancy ribbons are devoted is for the trimming of hats and bonnets?

A. Well, they are, some seasons, largely used for that. At other seasons a different character of ribbon is used, which I would not term a fancy ribbon.

Q. Is it your experience, as a merchant, that ribbons of some kind are extensively used as trimmings for hats and bonnets?

A. Some seasons they are, other seasons they are not.

Q. Is it your experience, as a merchant, that ribbons have always been more or less used as trimmings for hats and bonnets?

A. More or less, I think.

Q. That has always been one of the many uses to which ribbons have been put during your commercial experience, has it not?

A. Yes, sir; but some seasons very slightly used.

Q. Some seasons more?

A. Some seasons more.

Q. At all times that has been one of the substantial uses of ribbons, has it not?

A. Do you put that relative to the whole use, or simply that one direct question?

705 Q. One thing. I say at all times that has always been one of the uses to which ribbons have been put?

A. I think so.

Q. When orders were given in advance, which you have spoken of, upon which were those orders in respect to fashion and style based? Upon the foreign styles or upon something which was designed by yourselves?

A. When the orders would be given? It would be a very hard question for me to answer what was in the mind of the giver of the order or purchaser.

Q. They would be described by the party making the order? The goods they wanted would be described by the party giving the order?

A. Well, sometimes that is done. If there is ingenuity used by the buyer they sometimes will get our price, and then afterwards the style might be submitted.

Q. The party giving the order designates the color, the weight, and the style, does he not?

A. When the price is fixed the colors are immaterial. One color we make as well as another. That does not add or detract from the price.

706 Q. Does not the party ordering always give the color and assortment?

A. Oh, yes; but you do not quite catch my answer, perhaps, that the color does not make or take from the price, and therefore it would be perfectly immaterial in the application of the order, or the giving of the order.

Q. There is something else besides color to be considered in receiving the order, is there not?

A. Certainly. Quality at all times.

Q. Quality, material, and width?

A. The material is silk, of course.

Q. Width?

A. Well, if you fix the price, that governs the whole width usually.

Q. It is so much a line?

A. It is so much a line.

Q. A line having relation to the width?

A. We generally quote it at so much a lot. That fixes the price all the way through.

Q. And the design has some bearing, has it?

A. Well, some patterns would be more expensive to make than others; more difficult to weave, weave slow, and so on.

Q. The design would represent and characterize the ribbon that the party giving the order wishes?

A. Yes, sir.

Q. Broché ribbon would cost more than the other kind?

707 A. It would cost more, unless the manufacturer was rigged up to make that ribbon—if he had his cards cut and prepared.

Q. Did you make velvet ribbons?

A. Oh, no.

Q. There are velvet ribbons there?

A. There are some velvet effects here; yes, sir.

708 FREDERICK WILLIAM ALCOCK, sworn and examined.

By the DISTRICT ATTORNEY:

Q. Where do you live?

A. Paterson, N. J.

Q. What is your business?

A. Silk manufacturer.

Q. To what extent?

A. From four to five hundred thousand dollars a year.

Q. How many hands do you employ?

A. From 300 to 400.

Q. What part of your manufacturing is devoted to the production of ribbon?

A. About a quarter of a million.

Q. You produce a quarter of a million of ribbons per year?

A. Yes, sir.

Q. Do you confine yourself to any special kind of ribbons?

A. No, sir.

Q. Please look at those samples before you, called the Wanamaker samples, and say what they are.

A. They are all ribbons, with one exception.

Q. Is that their commercial designation?
A. Yes, sir.
Q. And has been for how long, to your knowledge?
A. Over 30 years.
Q. Have you ever heard them described in any other way?
A. No, sir.
709 Q. What is the one exception to which you allude? That passementre?
A. This passementre.
Q. That is the same as the others, No. 313. Did you ever hear them called trimmings?
A. No, sir.
Q. Please look at pattern No. 70; who made that?
A. I made it.
Q. To what extent did you make that?
A. About $14,000 of it for one man within the last 15 months.
Q. That is what they call a fancy ribbon, is it not?
A. Yes, sir.
Q. What business is that gentleman engaged in?
(Objected to.)
The DISTRICT ATTORNEY. I thought it would be well for the jury to know there were other uses to which they put fancy ribbons.
Mr. TREMAIN. We do not dispute that. I submit that the use of other samples of other ribbons is not important in assisting to determine the use of these ribbons.
The COURT. I do not see what difference it makes.

By the DISTRICT ATTORNEY:

Q. Is the person to whom you sold that ribbon engaged in the ornamentation of hats and bonnets?
A. No, sir.
710 Q. Or anything like that?
A. It is the other end of a man's person.
Q. Look at pattern 85; did you make that ribbon?
A. Yes, sir.
Q. Look at the Wanamaker samples and say if pattern 85 is similar to any one of these.
A. It is similar to it.
Q. Similar to the samples commencing with 243?
A. Yes, sir.
Q. Have you sold any of sample 85 to D. A. Hunter, who was a witness in this case?
A. Yes, sir.
Q. Did he write to you about them?
A. Yes, sir.
Q. What does he call them in his letter?
A. Ribbons. "We send you a couple of samples of ribbons."
Q. Is that the sample he sent you [indicating]?
A. That is the sample the salesman sold him.
Q. And you sent him the ribbons, I suppose?
A. Yes, sir.

Q. Look at sample No. 71 and say what they are.
A. Fancy ribbons.
Q. Who manufactures them?
A. I manufacture them.
711 Q. You sell them to the same parties that you sell the others to?
A. Men's shoes in the trade.
Q. What proportion of your output are what is known as fancy ribbons distinguished from plain ribbons?
A. About one-third.
Q. About one-third is fancy ribbon?
A. Yes, sir.
Q. Have you any means of knowing what proportion of those fancy ribbons is used for making and ornamenting hats?
A. Yes, sir; from 15 to 20 per cent.
Q. From 15 to 20 per cent. of your one-third?
A. Yes, sir.

Cross-examination by Mr. TREMAIN:

Q. What means have you of knowing?
A. From knowing the customers to whom the goods are sold and the purposes to which those customers usually apply the goods so bought.
Q. Do you know the purpose for which sample 71 is sold?
A. Yes, sir.
Q. That is the way you get at how it is used?
A. I have seen it.
Q. You make it for a particular purpose, do you not?
A. Yes, sir; I have seen it applied to a purpose.
712 Q. And it is sold by you to customers whom you know are going to apply it to that purpose?
A. Yes, sir.
Q. Is it ordered by those customers in advance?
A. Yes, sir.
Q. Is it kept in stock?
A. No, sir.
Q. It is made for shoe purposes, is it not?
A. Yes, sir.
Q. Its substantial value as a commodity is for that use, is it not?
A. It has a substantial value apart from the shoe trade.
Q. But part of its value consists in its adaptation to this shoe use, does it not?
A. Yes, sir. Fancy ribbons are more valuable for some purposes than others.
Q. I speak of that particular ribbon, sample 71. Does not its chief value consist in its adaptation to use for men's shoes, in your opinion?
A. No; its chief value consists in the cost of material and the production.
Q. As a commodity, in your opinion, does not its chief value consist in its use for men's shoes?
A. No, sir.
Q. As a commodity, to what class of dealers is that article, No. 71, saleable, except those who deal in it to use on men's shoes, just as they are, in those colors?

713 A. In these colors these could be sold to the notion trade, the dry-goods trade, and some small quantity probably to the millinery trade.

Q. Its chief use would be for the millinery trade?

A. No; the chief use of no ribbon is for the millinery trade.

Q. I ask you about that one?

A. No, sir; not the chief use.

Q. What is the chief use of that ribbon, 71, so far as you know?

A. The chief use is for shoes.

Q. There is no difficulty in ascertaining that?

A. It is confined to that.

Q. It is a trimming for shoes, is it not?

A. Yes, sir.

Q. Now, do you know of any other ribbon that has a special use like that ribbon has for shoes?

A. I know of quantities of ribbons sold for ladies' shoes, but I don't know of any other ribbons but these that are manufactured for men's shoes.

Q. Do you make sash ribbons?

A. Yes, sir.

Q. In large quantities?

A. Yes, sir.

Q. What proportion of sash ribbons to the entire product?

A. Well, I make a large proportion of my production from my broad looms besides the ribbons for sash ribbons. That comes under another head.

714 Q. Sash ribbons come under another head?

A. Yes, sir; but I have sash ribbons made on different looms. Then there are sashes made from gauzes.

Q. What class of dealers do you sell your sash ribbons to?

A. The dry-goods trade. Milliners, some.

Q. Is it difficult for you, as a commercial man, to distinguish a sash ribbon from any other kind of ribbon, when you see it?

A. Oh, children would wear a ribbon like that.

Q. I speak of commodities at wholesale in commerce?

A. Exactly. I am speaking about that.

Q. Is it difficult for you, as a commercial man, to distinguish sash ribbon from a shoe ribbon when you see it?

A. Not what I should consider a sash ribbon.

Q. It is not difficult?

A. No, sir.

Q. Do you know, when you see it, so as to select it from other ribbons, a ribbon used for men's hats?

A. Yes, sir; ususally—hat-bands.

Q. Is that such a ribbon, or are some of those such ribbons (referring to sample No. 512)?

A. These are bands and bindings.

Q. These are ribbons, are they not?

A. Yes, sir.

715 Q. Is that such a ribbon (referring to exhibit "A")?

A. That would answer for other purposes besides hat-bands.

Q. Is that adapted for use on men's hats?

A. It might be used; yes, sir. Yes, such ribbons as these can be used on men's hats.

Q. As a commodity it is adapted for use on men's hats, is it not?

A. Yes, sir.

Q. And is not the same thing true of exhibit "B"?

A. Yes, sir; these are bands and bindings.

Q. Do you sell any ribbons at all to the millinery trade?

A. Yes, sir.

Q. In Philadelphia?

A. Yes, sir.

Q. What proportion of your product during the last year, 1887, have you sold to the millinery trade?

A. In Philadelphia?

Q. Well, I make it generally, if it is easier for you to answer.

A. Of fancy goods?

Q. I said, what proportion of your product during the year 1887 have you sold to the millinery trade.?

A. From 15 to 20 per cent.

Q. Is that a fair average of your product?

A. I carefully looked the books over on Saturday.

716 Q. And you identified the millinery trade by the names of the houses, you knowing them?

A. Yes, sir.

Q. If there was no demand for your goods from the millinery trade, it would seriously affect the market for your product, would it not?

A. Some other use would come for them?

Q. Unless some other use would come up?

A. Yes, sir.

Q. But in the absence of some other use, the absence of the millinery trade demand would seriously affect the market for your product, would it not?

A. It would affect it probably from 15 to 20 per cent.

Q. And that would affect the price?

A. Not so as to cease its production.

717 C. LAMBERT (recalled), sworn and examined.

By the DISTRICT ATTORNEY:

Q. Please look at Exhibit A and Exhibit B and tell me what is their commercial designation or title.

A. Sample A is bindings and galloons for hats.

Q. And that is what they are known as?

A. Yes, sir.

Q. What are those [indicating]?

A. Hat bands.

Q. Is that their commercial designation?

A. Yes, sir.

Q. How long have they been known in that way?

A. They have been known from 25 to 30 years.

Q. Did you ever manufacture them?

A. Yes, sir.

Q. When?

A. Well, from 1858 to perhaps 1874 or 1875.

Q. Why did you stop?

(Objected to).

A. For good business reasons.

Q. What are these [referring to sample No. 512]?

A. These are hat bands, some fancy and some plain, and bindings.

718 Q. And they have been known as bands and bindings for 25 years?

A. Yes, sir.

Q. Please state whether or not at the time of the passage of the act of March 3rd, 1883, and prior thereto, from 1862, there were not a class of commodities commercially used as trimmings for the making and ornamenting of hats.

(Objected to. Objection overruled. Exception by plaintiff.)

A. There were.

Q. What were they?

A. Straws, plaits, twists, and braids.

Q. Look at those cards, Nos. 4 and 12; what are they?

A. Those are similar goods to what I understand hat trimmings were by the tariff of 1862, 1864, and 1883.

Q. Now, I understand you to say that that class of commodities was known to the trade as trimmings?

A. That is what the American silk trade understood as hat trimmings exclusively at that time.

Q. Did anybody else understand it so?

A. I am not going outside of the trade. I have got trouble enough in the trade.

719 Q. At the time that these were known as trimmings, from 1862 down to 1883, were ribbons ever designated as trimmings?

A. Not to my knowledge.

Q. And your knowledge is the result of an experience of how many years?

A. 25 years.

By the COURT:

Q. Were they used on hats then?

A. Yes, sir; they were; before I was born, I think.

Cross-examination by Mr. TREMAIN:

Q. Do you desire to change your testimony, which was understood to be to the effect, when you were on the witness stand before, that there was a class of commodities used for trimming bonnets, hats, and hoods, which you then enumerated?

A. Exclusively, I said. I only know them as trimmings exclusively. There are lots of other things used as trimmings, and I so gave the evidence.

Q. Will you please enumerate the classes of articles that were trimmings for hats, bonnets, and hoods, and so used within your commercial experience?

A. I should want more than to-day to do it. Most everything can be used on hats, bonnets, and hoods.

Q. Are you able to remember the staple commodities which you have already enumerated on the stand?

A. Yes, sir.

720 Q. What were they?

A. I would put velvets, plushes, feathers, flowers, ribbons, bead trimmings, and many other articles, one thousand and one, which I can't give you all the details of. Those are some of the principal.

Q. Straw articles, also?

A. They were used as trimmings, but they were the only article I know of used exclusively as trimmings.

Q. I am asking about commodities. They were commodities, were they not?

A. They were commodities.

Q. You have been examined upon this subject a great many times, have you not?

A. A great many times. This is the last one.

Q. You have been active in endeavoring to prevent the classification of ribbons at 20 per cent. ever since 1883, have you not?

A. Yes, sir; and long before that.

Q. Did you not say before the conference of appraisers in New York, last summer, that all ribbons were trimmings?

A. I don't remember that I made such a remark.

Q. Were you not asked by one of the Government officers whether or not all ribbons were trimmings?

A. I might have been.

Q. Did you not reply "yes?"

721 A. I might so have replied. You can use it to trim something, a man's hat, or anything. It can be used for trimming.

Q. Were you present at an interview with Mr. Cheney and others with the Secretary of the Treasury on the 11th of May, 1888?

A. I was.

Q. I will show you what purports to be a letter from the Secretary of the Treasury, dated May 15th, 1888, and ask you if you remember any of the occurrences referred to in that letter?

(Objected to as not cross-examination.)

The WITNESS. I object to telling, anyway; so you might as well stop there.

Mr. TREMAIN. I was only proposing to get in evidence a letter from the Secretary of the Treasury, written as an official instruction to collectors of the port, because I could not get it in in any other brief way. Perhaps this is not the most direct and proper way to put it in. I will offer it at another time.

(Counsel for defendant offers in evidence the Wanamaker directory, the cards, all the ribbons that have been used, and the various ornaments used in evidence, heretofore referred to.

722 Counsel for plaintiff requesting that everything be enumerated, counsel for defendant states that he will have a schedule prepared of all the articles offered in evidence.)

Defendant closes.

Adjourned to Wednesday, October 10th, 1888, at 10 a. m.

723 Defendants offer in evidence the following articles alluded to in the evidence and marked by the exhibits numbered as follows:

1. Directory of Wanamaker's store, Exhibit 199.
2. Cards, Exhibit 198.

3. Beaded silk piece, 194 E.
4. Carte No. 4.
5. Carte No. 12.
6. Fancy box, Exhibit 5211.
7. Fancy box, Exhibit 6669.
8. Fancy box, Exhibit 390.
9. Fancy box, Exhibit 20.
10. Fancy box, Exhibit 10.

Straw goods articles as follows:

11. Exhibit 358.
12. Exhibit 357.
13. Exhibit 356.
14. Exhibit 355.
15. Exhibit 354.
16. Exhibit 8491.

724 17. Exhibit 7144.

18. Exhibit G. H. D.
19. Exhibit T.
20. Exhibit U.
21. Exhibit V.
22. Exhibit W.
23. Exhibit X.
24. Exhibit Y.
25. Silk ribbon, Exhibit 200.
26. Fancy basket, Exhibit 100.
27. Fancy ribbons, Exhibit 30.
28. Fancy ribbons, Exhibit 70.
29. Letter of D. A. Hunter, dated September 15th, 1888.
30. Bureau cover, marked Exhibit 843.
31. Mouchoir, marked Exhibit 102.
32. Mouchoir, marked Exhibit 103.
33. Mouchoir, marked Exhibit 106.
34. Fancy work, Exhibit 709.
35. Basket, No. 9180.
36. Shoe ribbons, Exhibit 71.
37. Embroidered silk ribbon, Exhibit 37.

725 U. S. circuit court, eastern district of Pennsylvania, October term.

WANAMAKER }
vs. }
CADWALADER. }

Before Hon. William McKennan, justice, and a jury.

SIXTH DAY.

PHILADELPHIA, *Wednesday, October 10th*, 1888—10 a. m.

Present: Messrs. Tremain, Kingston, and Pritchard, for plaintiff; the district attorney for the Government.

Schedule of exhibits offered in evidence by defendant produced by the district attorney.

Mr. Tremain requested the permission of the court to recall Mr.
726 Lambert for cross-examination, which being granted, CATHOLINA LAMBERT was cross-examined as follows:

By Mr. TREMAIN:

Q. Can you state about what is the annual ribbon production in the United States?

A. From twenty to twenty-three millions.

Q. About what is the annual ribbon importation into the United States?

A. From eight to ten millions.

Mr. TREMAIN. By way of rebuttal we offer in evidence letter of the Secretary of the Treasury, dated May 15th, 1888, in explanation of the order of April 25th, 1888, and rendered necessary by reason of the testimony of Mr. Cadwalader, whom we really expected would produce this letter when we called for the letter. It turns out the letter he produced is a letter of June 23rd.

The DISTRICT ATTORNEY. I do not think the letter can be considered as rebuttal testimony. I object to it for the reason that it is not rebuttal testimony.

Mr. TREMAIN. We called for the letter.

The COURT. It was not introduced before because Mr. Cadwalader had not produced it.

The DISTRICT ATTORNEY. Mr. Cadwalader was not asked to produce it.

727 Mr. TREMAIN. We will be perfectly candid to the court about this. We expected when we cross-examined Mr. Cadwalader that he would state that his actions were under a letter of authority, or explanation of some character, or communication from the Secretary of the Treasury, and we had in our possession this letter and supposed it would be produced. When the letter was produced by Mr. Cadwalader it was a letter dated June 23rd, some five or six weeks after this. Here is a letter, aside from the fact whether it may be strictly in rebuttal or not, that upon its face is an explanation for the guidance of customs officers under the decision of 25th April, 1888, relating to the Langfeldt case and the classification of ribbons. It is a decision of the Treasury Department that should be taken into consideration by the court for what it may be worth. Perhaps it is not much as evidence as far as for the information of the court. We think that in view of the spreading upon the record of the decision of April 25th, 1888, by the Treasury Department that this ought to be spread upon the record also.

(Offer admitted; exception by the district attorney; letter marked No. 1, J. H. A., October 10th, 1888.)

728 Mr. TREMAIN. That letter that Mr. Cadwalader produced was dated June 23rd, and the contents of that letter spoke of a conference of local appraisers which was to be convened under it as indicating the Government procedure. I offer the volume published by the Government Printing Office of that official procedure of July, 1888, referred to in that letter.

(Same objection; objection overruled; exception by the district attorney.

Report of the local appraisers held at New York July 9th to July 21st, 1888, marked No. 2, J. H. A., October 10th, 1888.)

GEORGE BASTERT, sworn and examined.

By Mr. TREMAIN:

Q. What is your occupation?

A. Professor of music.

Q. Will you produce the written musical score of one of the melodies played by this instrument?

(Score produced.)

The WITNESS. That is it.

729 Q. You heard it play and wrote the music of it, did you?

A. Yes, sir; the instrument is a little out of tune.

Q. But those are the notes?

A. Yes, sir.

Q. It is in six and eight time?

A. Yes, sir.

Q. An allegro movement?

A. Yes, sir; it may vary a little at the end. I could not tell.

Q. But the time is written?

A. Yes, sir.

(Musical score produced by witness offered in evidence, and marked No. 3, J. H. A. October 10th, 1888.)

Q. Do you think it is the key of C?

A. Yes, sir; it may sound B flat, but that does not matter—that is immaterial about the key.

Q. It may be a half tone lower or higher?

A. Yes, sir.

Q. That would not make any difference?

A. No, sir.

Q. The melody can be written in any key?

A. Yes, sir.

(Letter produced by plaintiff, and marked Exhibit No. 1, J. H. A., October 10th, 1888, read as follows:)

730 TREASURY DEPARTMENT,
OFFICE OF SECRETARY,
Washington, D. C., May 15th, 1888.

COLLECTOR OF CUSTOMS, *New York:*

SIR: It has been represented to the Department at a personal interview by Mr. Cheney and other silk manufacturers that some doubt exists in the minds of the appraising officers at your port as to the scope of Department's instructions of the 25th ultimo, addressed to the collector of customs at Philadelphia, for the purpose of carrying out the decision of the United States Supreme Court in the case of Hartranft vs. Langfeldt et al., setting forth the general principles regarding the classification of imported hat materials and trimmings, a copy whereof was transmitted on the 27th ultimo, and it has also been represented by the attorneys for the importers that such instructions were being so construed and applied as to subject the merchandise to a higher rate of duty, which has heretofore been classified under Par. 448, T. I. The object of this letter is to inform the appraising officers, through you, that the instructions issued on the 25th

ultimo had reference to these kinds of merchandise which the
731 customs officers had heretofore, with the approval of the Department, declined to classify under 448, T. I., but which had been classified under other paragraphs imposing a higher duty, and it was the intention of such instructions that as to such merchandise it should hereafter be classified in accordance therewith, and to that extent they should take the place of previous instructions on the subject, and as to such materials as have heretofore been classified under Par. 448, T. I., was not intended to change or modify the instructions previously issued in regard thereto.

Very respectfully, yours,

I. H. MAYNARD,
Assistant Secretary.

(Evidence closed.)

732 And thereupon the plaintiff requested the court to charge as follows:

PLAINTIFF'S POINTS.

1. If the jury find the article assessed as a toy to be a musical instrument of any kind according to the common understanding of the term "musical instruments," the plaintiffs are entitled to recover.

2. If the jury find said article to be an implement or "structure artificially constructed and used for the production of a succession of musical and harmonious sounds," it was liable only to a duty of twenty-five per cent., and the verdict should be given to the plaintiffs.

3. If the jury find the ribbons in question are trimmings, and chiefly used for making or ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiffs.

4. The circumstance that the articles in question may be used for purposes other than the making or ornamenting of hats, bonnets, or hoods is not controlling, and does not subject them to a higher rate of duty if the fact be that the distinctive feature of the goods consists in their adaptation to use for making or ornamenting hats, bonnets, or hoods.

733 5. It is not essential that the various articles in question should be bought and sold under the specific name of trimmings. The individual names by which the articles in question are designated in trade do not interfere with their classification according to their prominent use, if it be found that they are trimmings, so used for making or ornamenting hats, bonnets, or hoods.

6. Upon the evidence in this case the term "trimmings" should not be given any technical or particular commercial meaning, but should receive its popular signification and natural import, and if the articles in question are trimmings in the general and popular sense of the term, and are used for making or ornamenting hats, bonnets, or hoods, then, if such use is predominant and not exceptional, the verdict should be for the plaintiffs.

7. Unless it be shown that the term "trimmings" is restricted in trade and commerce to some particular article to the exclusion of all others, that term should be given its natural signification, which would include all ar-

ticles of whatever material composed of the predominant use of which is "to trim."

8. If the jury find that the articles in question are adapted to use and are used for various purposes other than for trimming hats, but also
734 find that the use to which they are chiefly applicable is in making or ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiffs.

9. Where the articles are specially described in one section of the tariff act and a duty so imposed thereon, general terms in the same act by which a higher rate of duty is fixed, although sufficient to comprehend such articles, are not applicable to them and will not subject them to such higher rate of duty, and if the jury find the goods in question are trimmings used for making or ornamenting hats, bonnets, or hoods, then, although silk may be the component material of chief value, the verdict should be for the plaintiffs.

10. It is not essential that the articles in controversy should be specially mentioned in the tariff as subject to a duty according to their individual name. If they are found to be trimmings according to the natural meaning of the word, and are used to trim either hats, bonnets, or hoods, and also for other purposes, then, if principally used for making or ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiffs.

11. If the jury find that millinery ribbons are trimmings, and that
735 the articles in controversy are millinery ribbons, and are chiefly used for ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiffs.

12. There being no evidence of the existence of any article or articles bought and sold in trade under the commercial designation of "trimmings," without some additional individual designation, the clause of the tariff act imposing duty on "trimmings used for making or ornamenting hats, bonnets, and hoods," must be construed as grouping together in one class all the various articles of commerce used for the purpose aforesaid, of whatever material composed, and not specially enumerated or provided for in the tariff act, and if you find, therefore, that the chief use of the articles in question is for making or ornamenting hats, bonnets, or hoods, then, as they are not otherwise specially enumerated, they are within the clause imposing duty at twenty per cent., and your verdict should be for plaintiffs.

13. The testimony to the effect that there exists a special class of commodities distinguished in the trade as straw trimmings does not withdraw from the twenty per cent. classification ribbons which are chiefly used as trimmings for hats, bonnets, or hoods.

736 14. Upon the uncontroverted proofs in this case ribbons are trimmings. The issue here is, What kind of trimmings are the particular ribbons in controversy? Are they trimmings chiefly for hats, bonnets, or hoods? This is a question of fact for the jury, which, if answered in the affirmative, entitles plaintiffs to recover.

737 Thereupon the defendant requested the learned court to charge as follows:

DEFENDANT'S POINTS.

1. That if the jury should find that silk is the component material of chief value of the goods in question which are claimed to be "hat trim-

mings," and that they are not commercially known as trimmings used for making or ornamenting hats, bonnets, and hoods, then the rate of duty should be fifty per cent. ad valorem, and the plaintiff can not recover the alleged excess of duties claimed to have been paid upon these goods.

2. That if the jury should find that the goods in question, claimed to be hat trimmings, are not commercially known as trimmings used for making or ornamenting hats, bonnets, and hoods, then it is immaterial to what uses the said goods may be put.

3. That the act of March 3, 1883, must be construed according to the designation of articles as they were understood and known in commerce at the time of the passage of the said act and not with reference to the use to which they may be or may have been applied.

738 4. That if the jury believe that the goods in question, claimed to be hat trimmings, are composed as to their component material of chief value of silk, then they are not trimmings of a substance or material made dutiable by paragraph 448, of the act of March 3rd, 1883.

5. That in order to make the goods in question, claimed to be hat trimmings, duitable under paragraph 448 of the act of March 3rd, 1883, it must appear that they are composed of straw, chip, grass, palm leaf, willow, hair, whalebone or other substance or material not specially enumerated or provided for in said act; and if the jury believe that the goods in question are not composed of straw, chip, grass, palm leaf, willow, hair, whalebone, or other substance or material not specially enumerated or provided for in said act, but, on the contrary, are goods, wares, and merchandise of silk, or of which silk is the component material of chief value, then, as to the excess of duties claimed to have been paid upon the alleged hat trimmings, plaintiff can not recover.

6. That your inquiry should be, not whether the goods, claimed to be hat trimmings, are used chiefly or otherwise for making or orna-
739 menting hats, bonnets, and hoods, but whether at the time of the passage of the act of March 3rd, 1883, they were commercially known as trimmings for making or ornamenting hats, bonnets, and hoods.

7. That if the jury believe that the goods, claimed to be trimmings used for making or ornamenting hats, bonnets, and hoods are now commercially known as such, and that their chief use is for this purpose, but that they were not commercially known as such at the time of the passage of the tariff act of March 3rd, 1883, then the plaintiff as to the excess of duties claimed to have been paid upon the alleged hat trimmings can not recover.

8. That if the jury believe that the articles in question, claimed to be hat trimmings, were and are commercially known as ribbons and not as trimmings, used for making or ornamenting hats, bonnets, and hoods, then as to the excess of duties claimed to have been paid upon these articles the plaintiff can not recover.

9. If the jury believe that the article claimed to be a musical instrument is not commercially known as such, then as to the excess of duties alleged to have been paid upon this article the plaintiff can not recover.

740 10. That if the jury believe that the article in question, claimed to be a musical instrument, is commercially known as a doll or toy, then, as to the excess of duties claimed to have been paid upon this article, the claimant cannot recover.

11. That the words "musical instrument," as used in the act of March

3rd, 1885, import something more than an instrument that emits sound. The sound must consist of a succession of notes so modulated as to please the ear, or of simultaneous notes which, according to the laws of music, harmonize with each other.

12. That under all the evidence in this case your verdict must be for the defendant.

JAMES M. BECK,
Ass't U. S. Att'y.
JOHN R. READ,
U. S. Attorney.

741 And thereupon the court charged the jury as follows:

In the United States circuit court, eastern district of Pa.

WANAMAKER
vs.
CADWALADER.

THURSDAY, *October 11th*, 1888.

CHARGE OF THE COURT.

McKENNAN, *J.:*

Gentlemen of the jury, a very few words indeed will suffice to express all I deem it necessary to say to you in this case. The suit is brought to recover duties which are alleged by the plaintiff to have been erroneously charged upon articles imported which are subject to duty under the laws passed by Congress. You have before you samples of the articles in relation to which the dispute has arisen.

They consist, in the first place, of that figure in the window, which is claimed by the plaintiff to be a musical instrument, and to be classifiable as such, and subject to a duty as such.

742 Whether it was rightly or wrongly assessed, and duty exacted upon it, depends upon the fact as to whether, in your judgment, it is a musical instrument or not, and without going into any artistic or scientific definition about such things, it will be for you to say whether, according to the common understanding of the public, it is a musical instrument or not. That you will judge, of course, with reference to the testimony which you have heard on the one side or on the other, and according to your inspection of such a figure as that. If it is a musical instrument, then the duty exacted upon it was erroneously exacted, and the plaintiff would be entitled to recover the difference between the duty so exacted and the duty to which musical instruments are subject by the act of Congress.

You heard what the musical scale is upon which this thing operates, and I do not think it is necessary to say anything at all about it. You will determine the character of this figure by what is the common understanding of the public as to the character of such instruments, and by what you may judge besides from your own inspection.

743 The other subject of dispute in this case is the subject of ribbons, of which you have samples before you. They were classified by the revenue officers under a clause of the tariff act which im-

poses a duty of 50 per cent. The plaintiff claims that is erroneous, and that they are classifiable properly under another clause of the act of Congress, which subjects them to a duty of only 20 per cent. The section of the act which is claimed by the plaintiff to comprehend these goods in the following words:

"Hats, and so forth; materials for—braids, plaits, flats, laces, trimmings, tissues, willow sheets, and squares, used for making and ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm leaf, willow, hair, whalebone, or any other substance, or material not specially enumerated or provided for in the act."

It is claimed that these articles (ribbons they are, undoubtedly), and that they are used for making and ornamenting hats, and are therefore subject to this duty of 20 per cent. only.

In a case that was decided by the Supreme Court, which went up from this district, the Supreme Court has unquestionably held that arti-
744 cles which come within the description of this clause of the act are subject only to a duty of 20 per cent. That is, if they are trimmings, and if they are used for making and ornamenting hats, they are classifiable under this clause of the act of Congress, and are subject to a duty only of 20 per cent.

It is immaterial to inquire whether the Supreme Court in terms has said anything about the silk clause. They have determined that articles which are of the character described here and for the use stated come within that clause, and are subject only to a duty of 20 per cent. That is incontestible. So that by that ruling of the Supreme Court we are governed, and must so expound the law in cases occurring afterwards and relating to articles of a similar character.

Two considerations effect the decision of this question. The first is, Are the articles in controversy trimmings?

Secondly. Are they used or to be used in the making and ornamenting of hats?

These are questions of fact, which are for your determination, and which will control the decision in this case. In the first place, are they trim-
mings? In a general sense, in view of the evidence in this case,
745 there would seem to be no controversy about this. Nearly all the witnesses on both sides say that ribbons of the kind of which you have samples before you are used to trim something with. They have, no other positive use than that. They are put on bonnets and hats and hoods of males or females; upon baskets, and upon various other things that have been exhibited to you in evidence, and for the purpose of trimming; so that generically ribbons are properly characterized as trimmings, and such, it seems to me, is the incontrovertible effect of the testimony on both sides of this case. They do not alone constitute that class described in the act of Congress; they do not alone constitute trimmings; but a number of other articles, such as have been enumerated before you, enter into that class alike with ribbons. But that ribbons are trimmings in the most comprehensive sense would seem to be undeniable under the evidence on both sides of this case.

If they are, if that is their character, and if they are so used for the purpose described in the act of Congress, under the decision of the Su-

preme Court they are classifiable under that clause of the act, and are subject to the duty imposed upon them. That is a very simple
746 question that requires not many words in the discussion of.

We have the rule prescribed to us by the highest authority in the land, and by that we must be governed.

I will say here, in passing, that it seems to me that the argument that these things, if they have a trade designation, that that must be employed in the act, is in the language of the Supreme Court, hypercritical. The Supreme Court has so characterized it. It would be inappropriately applied in the case of ribbons to the term "trimmings" in the act, because they do not constitute all the class in which they fall under the evidence, any more than any of the other articles which are comprehended in that class; straw goods, and so on. Of course they are ribbons. Everybody knows that. To insist upon their being characterized in the act of Congress as ribbons, when Congress employs a term of broader significance, and that comprehends that, it does seem to me, in the language of the Supreme Court, to be hypercritical.

However, it is settled by the decision of the Supreme Court. To say further in reference to the use of these articles that this section of the act does not apply to them, because you can not tell beforehand to
747 what use the article applies, is unfounded, and there again we have the guidance of the Supreme Court, because it says that this is of no consequence. It says: "When it says used for making or ornamenting hats, bonnets and hoods, and so on," that it means the use for which they were habitually employed, or customarily employed, or usually employed, and not for which they had been employed. So the construction of the act is in no case impracticable. It is not necessary to await the use to which the thing is to be applied. Some of the witnesses say no man can tell anything about these things until they are put upon the hats, or otherwise. You cannot tell when they are sold, you cannot tell when they are imported, and therefore the act of Congress does not apply, but if they are usually employed to such use, they are within the act of Congress, and subject to the duty prescribed by the section I have read.

Is it shown that these ribbons, such as you have before you, are usually employed in the way that is claimed by the plaintiff, for making and decorating hats? You have a great deal of evidence on both sides touching this point. A large number of witnesses, a much larger number
748 on the part of the plaintiff has been produced than upon the part of defendant, all of whom testified that these ribbons are used for decorating and ornamenting hats, bonnets, and hoods. You have a number of witnesses on the other side who say that while ribbon is one of the articles which is used in ornamenting hats, yet that the smaller proportion of ribbons is used in that way for the ornamentation of hats, but there are other purposes for which they can be used, and for which they are used.

It is not necessary, in order to determine this fact, that it should be shown that ribbons are more largely used for this purpose than for all other purposes combined. If they are more generally used for that purpose than for any other, then they are used in the sense of the act for making and ornamenting hats.

If you are satisfied under the evidence, considering the preponderating weight of it, that these kinds of ribbons, such as you have here, are

commonly and usually used for the ornamentation of hats, then the character of these goods is determined.

I do not deem it necessary to say more about this decision of the Supreme Court than to state in brief the effect of it, and repeat what
749 I have said, that the court and the jury must be governed by what the Supreme Court have laid down.

These are the two facts that you are to consider and determine by your verdict:

First, are these ribbons, of which you have samples here, trimmings within the section of the act of Congress? And, secondly, if so, are they used more largely than for any other purpose in the making and ornamentation of hats, bonnets, and hoods? Those are the two facts, and as you determine them, this case must be decided.

A JUROR. In regard to the phrase, "not otherwise provided for," what is the meaning of that?

The COURT. The jury have nothing to do with that. The Supreme Court have practically answered that question in this decision. It has determined, as I have already stated, that if these articles are shown to be articles which are trimmings, and to be used for the ornamentation of hats they fall within this section of the act, notwithstanding other provisions of the act of Congress. But really there is no provision of a specific character in the act of Congress except this one, and as is enacted in the silk clause, that where articles are specially provided for in another
750 portion of the act, they are not subject to that portion of the act of Congress which relates to duties upon silks. This is a special provision such as brings these articles with' the dominion of this clause of the act of Congress.

I have been asked to instruct you upon certain points. In the first place, the plaintiff has asked the court to instruct the jury:

1. "If the jury find the article assessed as a toy, to be a musical instrument of any kind, according to the common understanding of the term 'musical instruments,' the plaintiff is entitled to recover."

I have substantially instructed you in the words of the plaintiff's point.

2. "If the jury find said article to be an implement or 'structure artificially constructed and used for the production of a succession of musical and harmonious sounds,' it was liable only to a duty of 25 per cent., and the verdict should be given to the plaintiff."

I think it is sufficient to instruct you in the terms of the first point, propounded by the plaintiff, and I therefore decline to answer the second.

751 3. "If the jury find the ribbons in question are trimmings, and chiefly used for making or ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiff."

I so instruct you.

4. "The circumstance that the articles in question may be used for purposes other than the making or ornamenting of hats, bonnets, or hoods, is not controlling, and does not subject them to a higher rate of duty if the fact be that the distinctive feature of the goods consist in their adaptation to use for making or ornamenting hats, bonnets, or hoods."

That point I also affirm.

5. "It is not essential that the various articles in question should be

bought and sold under the specific name of trimmings. The individual names by which the articles in question are designated in trade do not interfere with their classification according to their predominant use, if it be found that they are trimmings so used for making or ornamenting hats, bonnets, or hoods."

That point I also affirm.

752 6. "Upon the evidence in this case the term 'trimmings' should not be given any technical or particular commercial meaning, but should receive its popular signification and natural import, and if the articles in question are trimmings in the general and popular sense of the term, and are used for making or ornamenting hats, bonnets, or hoods, then if such use is predominant and not exceptional, the verdict should be for the plaintiff."

I have substantially so told you, and I affirm this point.

7. "Unless it be shown that the term 'trimmings' is restricted in trade and commerce to some particular article to the exclusion of all others, that term should be given its natural signification, which would include all articles of whatever material composed, the predominant use of which is to trim."

That I affirm also.

8. "If the jury find that the articles in question are adapted to use, and are used for various purposes other than for trimming hats, but also find that the use to which they are chiefly applicable is in making or ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiff."

That point I affirm.

753 9. "Where the articles are specially described in one section of the tariff act, and a duty so imposed thereon, general terms in the same act by which a higher rate of duty is fixed, although sufficient to comprehend such articles, are not applicable to them, and will not subject them to such higher rate of duty; and if the jury finds the goods in question are trimmings used for making or ornamenting hats, bonnets, or hoods, then, although silk may be the component material of chief value, the verdict should be for the plaintiff."

That is a substantial answer to the question which the juror asked. That point I affirm.

10. "It is not essential that the articles in controversy should be specially mentioned in the tariff as subject to a duty according to their individual name. If they are found to be trimmings, according to the natural meaning of the word, and are used to trim either hats, bonnets, or hoods, and also for other purposes, then, if principally used for making or ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiff."

That point I also affirm.

754 11. "If the jury find that millinery ribbons are trimmings, and that the articles in controversy are millinery ribbons, and are chiefly used for ornamenting hats, bonnets, or hoods, the verdict should be for the plaintiff."

That is only expressing some other point in a little different form, but it is affirmed.

12. "There being no evidence of the existence of any article or articles bought and sold in trade under the commercial designation of 'trimmings,' without some additional individual designation, the clause of the tariff act

imposing duty on 'trimmings used for making or ornamenting hats, bonnets, and hoods,' must be construed as grouping together in one class all the various articles of commerce used for the purpose aforesaid, of whatever material composed, and not specially enumerated or provided for in the tariff act, and if you find, therefore, that the chief use of the articles in question is for making or ornamenting hats, bonnets, or hoods, then, as they are not otherwise specially enumerated, they are within the clause imposing duty at 20 per cent., and your verdict should be for the plaintiff."

That is only a variation of some of the other points, but I affirm it.

755 13. "The testimony to the effect that there exists a special class of commodities distinguished in the trade as straw trimmings, does not withdraw from the 20 per cent. classification ribbons which are chiefly used as trimmings for hats, bonnets, or hoods."

That I believe to be the law, and I so instruct you.

14. "Upon the uncontroverted proofs in this case, ribbons are trimmings. The issue here is, What kind of trimmings are the particular ribbons in controversy? Are they trimmings chiefly for hats, bonnets, or hoods? This is a question of fact for the jury, which, if answered in the affirmative, entitled plaintiff to recover."

I instruct you accordingly.

The defendant has submitted the following points, which I will read and answer:

1. "That if the jury should find that silk is the component material of chief value of the goods in question, which are claimed to be 'hat trimmings,' and that they are not commercially known as trimmings, used for making or ornamenting hats, bonnets, and hoods, then the rate of duty should be 50 per cent. ad valorem, and the plaintiff can not

756 recover the alleged excess of duties claimed to have been paid upon these goods."

That point I refuse.

2. "That if the jury should find that the goods in question, claimed to be hat trimmings, are not commercially known as trimmings used for making or ornamenting hats, bonnets, and hoods, then it is immaterial to what uses the said goods may be put."

That point I refuse, because I regard it as not only in plain contravention of the language of the act of Congress, but of the decision of the Supreme Court.

3. "That the act of March 3rd, 1883, must be construed according to the designation of articles as they were understood and known in commerce at the time of the passage of the said act, and not with reference to the use to which they may be or may have been applied."

If the latter line, or two, were left out of that point, I would affirm it; but, taking it altogether, I refuse it, because I say the use does control the classification, as decided by the Supreme Court.

757 4. "That if the jury believe that the goods in question claimed to be hat trimmings, are composed as to their component material of chief value of silk, then they are not trimmings of a substance or material made dutiable by paragraph 448 of the act of March 3rd, 1883."

That point I refuse.

5. "That in order to make the goods in question, claimed to be hat trimmings, dutiable under paragraph 448 of the act of March 3rd, 1883, it

must appear that they are composed of straw, chip, grass, palm leaf, willow, hair, whalebone, or other substance or material not specially enumerated or provided for in said act; and if the jury believe that the goods in question are not composed of straw, chip, grass, palm leaf, willow, hair, whalebone, or other substance or material not specially enumerated or provided for in said act, but, on the contrary, are goods, wares, and merchandise made of silk, or of which silk is the component material of chief value, then, as to the excess of duties claimed to have been paid upon the alleged hat trimmings, the plaintiff can not recover."

I refuse so to instruct you.

758 6. "That your inquiry should be, not whether the goods claimed to be hat trimmings are used chiefly or otherwise for making or ornamenting hats, bonnets, and hoods, but whether at the time of the passage of the act of March 3rd, 1883, they were commercially known as trimmings for making or ornamenting hats, bonnets, and hoods."

I can not so instruct you.

7. "That if the jury believe that the goods, claimed to be trimmings, used for making or ornamenting hats, bonnets, and hoods, are now commercially known as such, and that their chief use is for this purpose, but that they were not commercially known as such at the time of the passage of the tariff act of March 3rd, 1883, then the plaintiff as to the excess of duties claimed to have been paid upon the alleged hat trimmings can not recover."

I decline to so charge you.

8. "That if the jury believe that the articles in question, claimed to be hat trimmings, were and are commercially known as ribbons, and not as trimmings used for making or ornamenting hats, bonnets, and hoods, then as to the excess of duties claimed to have been paid upon these articles the plaintiff can not recover."

759 I refuse so to instruct you.

9. "If the jury believe that the article claimed to be a musical instrument is not commercially known as such, then as to the excess of duties alleged to have been paid upon this article the plaintiff can not recover."

I refuse so to instruct you. It is not essential to the right of the plaintiff to recover that this article should have been commercially known as a musical instrument. If it was really a musical instrument, and had no commercial designation, then the plaintiff would be entitled to recover.

10. "That if the jury believe that the article in question, claimed to be a musical instrument, is commercially known as a doll or toy, then as to the excess of duties claimed to have been paid upon this article the plaintiff can not recover."

I affirm that point. If it had, at the time of the passage of the act of 1883, a well known commercial designation as a toy, then it is to be presumed that Congress intended to impose a duty upon it as a toy, and it would not be classifiable under any other clause of the act of Congress than such as describes it as a toy.

760 11. "That the words 'musical instrument' as used in the act of March 3rd, 1883, import something more than an instrument that emits sound. The sound must consist of a succession of notes so modulated

as to please the ear, or of simultaneous notes which, according to the laws of music, harmonize with each other."

I do not intend to go into the domain of science about this thing. I put it to you as a plain matter of understanding and common designation, and I therefore decline to give you the instructions asked.

12. "That under all the evidence in this case your verdict must be for the defendant."

I decline so to instruct you.

Gentlemen, to very briefly recapitulate, the two questions submitted for you to decide, apart from this thing in the window, are, first, are the ribbons such as have been shown you trimmings as they are commonly and generally known. That you are to determine under the evidence on both sides.

761 In the second place [if you find that they are trimmings, are they chiefly used, or to be used usually or in the language of the Supreme Court, habitually employed or customarily employed or usually employed in the ornamentation of hats].

If you find both these questions in the affirmative, then your verdict must be for the plaintiff, for the amount of the excess of duties erroneously assessed upon the articles imported.

If you find either in the negative, your verdict must be for the defendant.

[A JUROR. We are not to take into consideration whether these ribbons are made of silk or not?

The COURT. No, sir.

A JUROR. "Not otherwise provided for," they do not come in, whether they are silk or cotton?

The COURT. The Supreme Court has settled that question, and jurors as well as courts must submit to it.]

(Defendant's counsel except to the answer of plaintiff's points, except the second, and to the answers of defendant's points, except as to the tenth, and did also except to the following passages in the charge of the learned court which exceptions were duly allowed, and which portions of the charge so excepted to are enclosed in brackets.)

762 After the jury had retired the following discussion arose:

Mr. TREMAIN. I suggest no samples be sent to the jury unless they send for them.

DISTRICT ATTORNEY. I think I am entitled to have the jury take out the articles that are offered in the case.

Mr. TREMAIN. You want to send out those packages and things that were never evidence, and it seems to me they ought not to go to the jury.

The COURT. Let them go.

Mr. TREMAIN. They have not asked for them.

DISTRICT ATTORNEY. It is not a question whether they have asked for them. It is a question whether we have a right to send them.

The COURT. It is only part of it.

DISTRICT ATTORNEY. Though they all go out. It is the rule.

The COURT. It is not the rule.

Mr. TREMAIN. I look upon a sample as only a piece of evidence. Therefore a piece of evidence should not go to the jury-room unless they ask for it.

763 BUTLER, J. It is time enough when they ask for it.

DISTRICT ATTORNEY. Does your honor rule that they shall not go out?

The COURT. I rule that they may go out if the jury want them.

THURSDAY, *Oct.* 11*th*, 1888.

The jury in this case, having returned to the court-room, were asked by the clerk of the court whether they had agreed upon their verdict.

Their foreman, Mr. Francis P. Reeves, replied: "We have not. May it please the court the jury desire to be instructed on two points, and have written two questions to ask the court" (handing written document to McKennan, J.).

Mr. Reeves here asked the court as to the second question.

MCKENNAN, J. If you are satisfied that these articles are trimmings and that their chief use is for ornamenting hats, then your verdict should be for the plaintiff.

764 Mr. REEVES. Now as to the first question.

MCKENNAN, J. I do not understand that.

Mr. REEVES. Shall I try to explain to your honor?

MCKENNAN, J. Yes; that is what I want to know.

Mr. REEVES. We have ribbons on hoods before us, which were offered, as we understand, in evidence by the plaintiff, that are of a different character from the samples we call Wanamaker's ribbons, which are the subject of contest. They are an entirely different class of ribbons. We have other ribbons besides those upon hoods, which have been offered in evidence, and are now before us in the jury-room; a different class of ribbons. Are we to confine our consideration entirely to the Wanamaker ribbons?

MCKENNAN, J. The Wanamaker ribbons.

Mr. REEVES. The Wanamaker samples upon which a refund duty is claimed.

MCKENNAN, J. You are to take into consideration all the samples in evidence in determining the chief use; whether they are used chiefly for the ornamentation of hats and bonnets.

Mr. REEVES. The view of the jury and myself differ as to the
765 two qualities of ribbons. The ribbons upon which the refund of duty is claimed are of one class exclusively; that is to say, they are fancy ribbons, while there are a great many plain ribbons in evidence of course.

MCKENNAN, J. You are to determine with reference to the Wanamaker ribbons whether they are trimmings or not—whether that is their chief and customary use.

Mr. REEVES. We then understand the court that we are to exclude all other ribbons but the Wanamaker samples upon which the contention is being made.

MCKENNAN, J. You are to consider all the evidence.

Mr. REEVES. In regard to the chief use, we are not to consider the habitual use?

MCKENNAN, J. Well, I do not know that you need go into any finer distinction—any nice distinction—but what is the use now to which these ribbons are most commonly put.

Mr. REEVES. Without regard to their being habitually or continually used?

McKENNAN, J. You need not bother yourselves about the definition of words. I thought I had endeavored to use as plain language as I could, and I still see no ambiguity in the words which I employed.

766 Mr. REEVES. The jury recognizes a difference between the habitual use and the chief use.

McKENNAN, J. As I say, they need not bother themselves about the dictionary meaning. It is matter of plain comprehension.

Mr. TREMAIN. May we ask your honor for the plaintiff to tell the jury that the plaintiff makes no claim except upon the Wanamaker ribbons?

McKEENAN, J. I have told them so.

DISTRICT ATTORNEY. I do not understand that there is any difference between Gen. Tremain and myself on that subject—of what the claim is based on, but the other ribbons are offered in evidence for the purpose of showing that they are a large class of fancy ribbons, and to controvert the contention of the plaintiff's counsel that fancy ribbons are chiefly or only used for hats, bonnets, and hoods. That is what the other ribbons were offered in evidence for by the defendant.

McKENNAN, J. I do not want to hear any argument.

DISTRICT ATTORNEY. Your honor understands that I am entitled to argue the question.

767 McKENNAN, J. You are not entitled to speak at all. It is a matter between the court and jury entirely.

DISTRICT ATTORNEY. Your honor made a remark to the jury, and I think I have a right to except to it.

McKENNAN, J. Of course, but you have no right to argue it.

DISTRICT ATTORNEY. I answered Mr. Tremaine. If he is to be permitted to speak, I think I ought to be.

McKENNAN, J. Neither of you have a right to speak. We will have no more argument.

The DISTRICT ATTORNEY. I am satisfied with the arguments that we have had.

768 And thereupon, the counsel for the said defendant did then and there except to the aforesaid charge and opinion of the said court, and inasmuch as the said charge and opinion, so excepted to, do not appear upon the record:

The said counsel for the said defendant did then and there tender this bill of exceptions to the opinion of the said court, and requested the seal of the judge aforesaid should be put to the same, according to the form of the statute in such case made and provided. And thereupon the aforesaid judge, at the request of the said counsel for the defendant, did put his seal to this bill of exceptions, pursuant to the aforesaid statute in such case made and provided, this seventh day of December, A. D. 1888.

W. McKENNAN, [L. S.]
Cir. Judge.

769 UNITED STATES OF AMERICA,
Eastern district of Pennsylvania, set.:

I, Samuel Bell, clerk of the circuit court of the United States of America for the eastern district of Pennsylvania, in the third circuit, do hereby

certify the foregoing to be a true and faithful copy of the original pleas and proceedings in the case of John Wanamaker, Thomas B. Wanamaker, and Robert C. Ogden, trading as John Wanamaker, vs. John Cadwalader, collector of customs for the district of Philadelphia, No. 15, April sesssion 1888, on file, and now remaining among the records of the said court in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this 26th day of January, in the year of our Lord one thousand eight hundred and eighty-nine and of the Independence of the United States the one hundred and thirteenth.

[SEAL.] SAMUEL BELL,
Clerk of C. C. U. S., E. D. of Pa.

(Indorsed :) No. . Sessions, 188 . Circuit court United States, eastern district of Pennsylvania. Certified copy.

(Indorsement on cover :) No. 1494. John Cadwalader, collector of customs for the district of Philadelphia, plaintiff in error, vs. John Wanamaker, Thomas B. Wanamaker & Robert C. Ogden, trading as John Wanamaker. E. Pennsylvania C. C. U. S. Filed February 1, 1889.

149 U.S. 532 ?

Office Supr[illegible]Court U. S.
FILED.
APR 8 1893
JAMES H. McKENNEY,
CLERK.

HISTORY

OF THE

HAT-TRIMMINGS CONTROVERSY.

BY

CHARLES H. ALDRICH,
Solicitor-General,
HENRY SCHOFIELD.

HISTORY

OF THE

HAT-TRIMMINGS CONTROVERSY.

First. Are goods excluded from the hat-material clause of the tariff act of 1883 by the mere fact that they are made of silk, or of silk as their component material of chief value? Second. If they are not, exactly what kind, or description, of goods made of silk, or of silk as their component material of chief value, are dutiable under that clause?

These are the important questions in the so-called "hat-trimmings controversy" between the Government and importers.

Two provisions in the act of 1883 are involved—one is found in the section, or schedule, fixing a rate of duty upon "silk and silk goods;" the other is a special clause in the schedule for "sundries," and is entitled "hats, and so forth, materials for." The two provisions are as follows: In schedule L—"silk and silk goods"—"all goods, wares, and merchandise, not specially enumerated or provided for in this act, made of silk, or of which silk is the component material of chief value, fifty per centum ad valorem;" schedule N—"sundries"—"hats, and so forth, materials for: *Braids*, plaits, flats, *laces*, *trimmings*, tissues, willow sheets and squares, *used for making or ornamenting hats, bonnets, and hoods, composed of* straw, chip, grass, palm leaf, willow, hair, whalebone, or *any other substance or material, not specially enumerated or provided for in this act*, twenty per centum ad valorem."[1]

As respects future importations of silk goods, the controversy was put at rest by Congress, on February 18th, 1890. On that day it passed a special act (26 Stat. L., 8),[2] under which no silk goods of any kind were dutiable, as a substitute for the above provision for "hats, and so forth, materials for." The controversy is now important only as it involves the right of importers to re-

[1] Upon the italicized words, the importers rely. As for plaits, flats, willow sheets and squares, it is assumed throughout that they are not usually made of silk.

"Silk goods," or "silk braids," etc., includes always in the text, goods, braids, etc., of silk as their component material of chief value. The silk sections in the various acts apply to all such articles. If the language is not expressly to that effect, then it is so impliedly. (See *Swan* v. *Arthur*, 103 U. S. R., 597; *Edelhoff* Case, 132 U. S. R., 614, 621.)

[2] Exhibit XXV.

cover money alleged to have been illegally exacted upon importations of silk goods made before the passage of this act.[1]

It is conceded by all that the goods involved in these importations are dutiable under the above provision in the silk schedule of the act of 1883, if they are not dutiable under the provision for "hats, and so forth, materials for." The rate prescribed in the silk schedule is 50 per cent. ad valorem. The rate prescribed in the hat-material clause is 20 per cent. ad valorem.

Importers have contended that the single fact that goods are made of silk does not exclude them from the clause laying a duty on materials for hats; that silk goods of any description are dutiable under that clause, if shown to be *chiefly used* for making or ornamenting hats, bonnets, and hoods.[2] The Government has contended, first, that no silk goods are dutiable under the hat-material clause; second, that if silk goods are dutiable under that clause, the class is a very limited one, and includes, as nearly as it can be defined in words, only such silk goods as are, by their very appearance on a simple inspection, evidently adapted and primarily designed for the purpose of ornamenting or making hats, bonnets, and hoods; silk goods, *i. e.*, whose primal and regular use is for making hats, and which, when used for any other purpose, are recognizable as out of place, and diverted from the offices to which they are customarily applied.[3]

As a special provision for materials for hats has had a place in the revenue system of the country for a great number of years, in order to understand the controversy, to see why it arose under the tariff act of 1883 and not under previous acts, it seems well to go back of that act, in order to determine, if one can, how the law stood upon the two points in issue.

In the tariff act of 1862,[4] the special provision for materials for hats first took on the form which it has in the act of 1883. It was taken from the act of 1862 and inserted in the Revised Statutes. From the Revised Statutes it was taken into the act of 1883. The special provision for silk and silk goods in force when the act of 1862 was passed is found in the act of 1861. A new provison was enacted in 1864; this latter was inserted in the Revised Statutes. The next act relating to silk and silk goods was passed in 1875. This legislation upon silk and silk goods, and upon materials for hats, is given below in parallel columns:

Silk sections.	*Hat-material provisions.*
Section 16 of the *act of March* 2, 1861, c. 68 (12 Stat., 186):	Section 22 of the *act of March* 2, 1861, c. 68 (12 Stat., 192):

[1] Some idea of the amount of money involved in these importations may be formed from Exhibit I.

[2] Requests for charges in Hartranft case, Cadwalader case, and Walker case.

[3] See *Maillard* v. *Lawrence* (16 How., 250, 262), per Mr. Justice Daniel. Exhibits V, VII, VIII, IX, XV.

[4] There had been such a provision in earlier acts, but it is not necessary to note them specially. See Exhibit XXIV.

[5] It is also set out in the opinion in *Robertson* v. *Edelhoff*, 132 U. S., 614, 618, 621.

"On silk in the gum, not more advanced in manufacture than singles, tram, and thrown or organzine, fifteen per centum ad valorem; on all silks valued at not over one dollar per square yard, twenty per centum ad valorem; on all silks valued at over one dollar per square yard, thirty per centum ad valorem; on all silk velvets, or velvets of which silk is the component material of chief value, valued at three dollars per square yard, or under, twenty-five per centum ad valorem; valued at over three dollars per square yard, thirty per centum ad valorem; on floss silks, twenty per centum ad valorem; on silk ribbons, galloons, *braids*, fringes, *laces*, tassels, buttons, button cloths, *trimmings*, and on silk twist, twist composed of mohair and silk, sewing silk in the gum or purified, and all other manufactures of silk, or of which silk shall be the component material of chief value, not otherwise provided for, thirty per centum ad valorem."

Section 8 of the *act of June* 30, 1864 (13 Stat., 210), were increased (p. 210):

"On spun silk for filling in skeins or cops, twenty-five per centum ad valorem. On silk in the gum not more advanced than singles, tram, and thrown or organzine, thirty-five per centum ad valorem. On floss silks, thirty-five per centum ad valorem. On sewing-silk in the gum or purified, forty per centum ad valorem. On all dress and piece silks, ribbons and silk velvets, or velvets of which silk is the component material of chief value, sixty per centum ad valorem. On silk vestings, pongees, shawls, scarfs, mantillas, pelerines, handkerchiefs, veils,

"Flats, braids, plaits, sparterre and willow squares, used for making hats and bonnets, thirty per centum ad valorem."

Section 8 of the *act of July* 14, 1862, c. 163 (12 Stat., 551):

"On *braids*, plaits, flats, *laces*, *trimmings*, sparterre, tissues willow sheets and squares, used for making or ornamenting hats, bonnets and hoods, composed of straw, chip, grass, palm-leaf, willow, or any other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for, thirty per centum ad valorem."

Section 8 of the *act of July* 14, 1862, c. 163 (12 Stat., 551):

"On *braids*, plaits, flats, *laces*, *trimmings*, sparterre, tissues willow sheets and squares, used

laces, shirts, drawers, bonnets, hats, caps, turbans, chemisettes, hose, mitts, aprons, stockings, gloves, suspenders, watch-chains, webbing, *braids*, fringes, galloons, tassels, cords and *trimmings*, sixty per centum ad valorem. On all manufactures of silk, or of which silk is the component material of chief value, not otherwise provided for, fifty per centum ad valorem."

Revised Statutes, p. 469: Schedule H.—Silks and silk goods:

"Silk in the gum not more advanced than singles, tram, and thrown or organzine, thirty-five per centum ad valorem. Spun silk, for filling in skeins or cops: Thirty-five per centum ad valorem. Floss silks, thirty-five per centum ad valorem. Sewing silk in the gum or purified, forty per centum ad valorem. Silk twist, twist composed of mohair and silk, forty per centum ad valorem. Dress and piece silks, ribbons and silk velvets, or velvets of which silk is the component material of chief value, sixty per centum ad valorem. Silk vestings, pongees, shawls, scarfs, mantillas, pelerines, handkerchiefs, veils, *laces*, shirts, drawers, bonnets, hats, caps, turbans, chemisettes, hose, mitts, aprons, stockings, gloves, suspenders, watch-chains, webbing, *braids*, fringes, tassels, cords, and *trimmings*, and ready-made clothing of silk, or of which silk is a component material of chief value, sixty per centum ad valorem. Buttons and ornaments for dresses and outside garments made of silk, or of which silk is the component material of chief value, and containing no wool, worsted, or goat's hair, fifty per centum ad valorem. Manufactures of silk, for making or ornamenting hats, bonnets and hoods, composed of straw, chip, grass, palm-leaf, willow, or any other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for, thirty per centum ad valorem."

Revised Statutes, p. 476.

"Hats, etc., materials for,—*Braids*, plaits, flats, *laces*, *trimmings*, tissues, willow sheets and squares used for making or ornamenting hats, bonnets and hoods, composed of straw, chip, grass, palm-leaf, willow, or any

or of which silk is the component material of chief value, not otherwise provided for, fifty per centum ad valorem.

other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for, thirty per centum ad valorem;"

Section I of the *act of February* 8, 1875 (18 Stat., 307)

"On spun silk, for filling, in skeins or cops, thirty-five per centum ad valorem; on silk in the gum, not more advanced than singles, tram, and thrown or organzine, thirty-five per centum ad valorem; on floss silks, thirty-five per centum ad valorem; on sewing silk, in the gum or purified, forty per centum ad valorem; on lastings, mohair cloth, silk twist, or other manufactures of cloth, woven or made in patterns of such size, shape, or form, or cut in such manner as to be fit for buttons exclusively, ten per centum ad valorem; *on all goods, wares, and merchandise, not otherwise herein provided for, made of silk, or of which silk is the component material of chief value, irrespective of the classification thereof for duty by or under previous laws, or of their commercial designation, sixty per centum ad valorem: Provided*, That this act shall not apply to goods, wares, or merchandise which have, as a component material thereof, twenty-five per centum or over in value of cotton, flax, wool, or worsted."

The questions whether, under this legislation, silk goods were dutiable as materials for hats, and if so, of what kind or description were they, can not be answered by a simple reference to authorities exactly in point. The closest authority upon them is found in the case of *Arthur* v. *Zimmerman* (96 U. S., 124). It was a case where a refund of duties claimed to have been illegally exacted was asked. It involved the hat-material clause of the act of 1862 (supra), and a provision for cotton goods in the act of 1864. The goods involved were made of *cotton*.

On January 10th, 1874, Secretary of the Treasury Richardson ruled[1] that "cotton braids which, although imported for use in trimming hats, *are capable of being used for other* purposes," are not dutiable at 30 per cent. under the hat-material provision of the act of 1862, but "should be classified under the special provision for 'cotton braids' in the sixth section of the act of 1864, at a duty of 35 per cent. ad valorem, less 10 per cent." Under this ruling such braids were classified by the collectors under the act of 1864. Many cases were taken into the courts and in the *Zimmerman* case the question of the legality of the classifications came before the Supreme Court.

The goods are described in the printed report as "goods * * * composed of cotton, and *commercially known as 'hat braids,'* * * * *and used exclusively for making and trimming hats and bonnets.*" The question was whether they were dutiable under the hat-material provision of the act of 1862 at 30 per cent., as "braids * * * used for making or ornamenting hats, bonnets, and hoods, composed of * * * any other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for," or under

[1] Exhibit H.

the sixth section of the act of 1864, which imposed a duty of 35 per cent. on "cotton braids, insertings, lace, trimmings, or bobbinets, and all other manufactures of cotton not otherwise provided for." The judgment was that they were dutiable at 30 per cent. under the hat-material provision of the act of 1862.

The opinion of the court was prepared by Mr. Justice Hunt. The decision was put upon the ground that the braids were "*specifically enumerated* in the acts of 1861 (12 Stat., 178, 192, 'flats, braids, plaits * * * used for making hats and bonnets') and 1862" (12 Stat., 543, 551; *supra*): that they were also "embraced in the *general words* of the act of 1864," and the "*specific designation*" should prevail, "under the principles laid down in *Arthur* v. *Morrison*, *Arthur* v. *Lahey*, and *Arthur* v. *Unkart* (*supra*, *i. e.*, 96 U. S., pp. 108, 112, 118)."

Does this *Zimmerman* case show that, prior to the act of 1883, silk goods were legally dutiable as materials for hats? As the goods involved were not made of silk, the principle of the decision must be got at. The decision was that braids composed of cotton, *used exclusively* for trimming hats, and *commercially known as "hat braids,"* were dutiable under the hat-material clause of the act of 1862, rather than under the sixth section of the act of 1864 as "cotton braids" or "manufactures of cotton."

It was assumed by the court at the start that the goods were embraced within the language of each of the rival provisions. They were obviously within the cotton provision, because they were "braids" and were composed of cotton. As they were "braids" and were "used exclusively" for hats, and composed of the vegetable substance cotton, it is equally obvious that they were within the hat-material clause, *unless* excluded therefrom by the operation of the words, "not otherwise provided for."[1] The question whether those words operated to so exclude the goods must be inquired into. Whether those words modified the word "braids," or the words "substance" or "material," could not have been a question of any importance, unless there was somewhere in the tariff system another provision, either for the braids, or for the substance, or material, cotton, of which they were composed. The right place to look for such provisions is in the act in which the hat-material clause involved in the case is found, *i. e.*, *in the act of 1862*, for it is the law that the words "not otherwise provided for" mean "not otherwise provided for *in this act*" (*Smythe* v. *Fiske*, 23 Wall., 374, 381; *Movius* v. *Arthur*, 95 U. S., 144, 147; *Arthur* v. *Lahey*, 96 U. S., 112 117). Turning to the act of 1862 (12 Stat., 543), it does not appear to contain any provision at all for braids, *eo nomine*, composed of cotton. Nor does it appear to contain any provision for the raw substance cotton, or the material cotton, such as "all manufactures of cotton."

[1] These words are also found in the cotton provision involved in the case. But it seems plain that there they relate only to "manufactures of cotton." If they relate to the specific words, "braids," etc., the text applies to that provision as well as to the hat-material clause in the act of 1862.

It is true that "cotton braids" were provided for as above in the act of June 30, 1864 (13 Stats., 202,209). The provision quoted is found in the *fourth* paragraph of section 6 of that act. But this paragraph was superseded by the act of March 3, 1865 (13 Stats., 491, 492), and in the section superseding it there is no mention of "cotton braids," and the law so continued until the Revised Statutes of 1874 went into effect in June of that year, which was after the importations involved in the Zimmerman case, the last importation in that case being in March, 1874, and therefore could have no effect thereon. Indeed, in view of the provisions of section 5600 that "no inference or presumption of legislative construction is to be drawn by reason of the title under which any particular section is placed," it is thought that the general rule as to the application of the words "not otherwise provided for" must yet apply.

The case of *Arthur* v. *Zimmerman* then simply held that braid of cotton, *commercially* known as hat braids and used *exclusively* for hats, came under the hat-braid clause, as against other provisions not containing the word *braid* or any other designation applying thereto. It is true that the court says they were embraced in the general words of the act of 1864, which can only be true on the supposition that the *fourth* paragraph did not include the three sentences preceding section 7, and which, it is respectfully submitted, was a mistake.

It appears to provide only for manufactures of certain kinds of cotton, as *e. g.*, bleached and unbleached cotton; as "on all manufactures composed wholly of cotton, bleached, unbleached, printed, painted, or dyed, not otherwise provided for, five per centum ad valorem;" again, "*Provided*, That upon all plain woven cotton goods, not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed sixteen cents per square yard, there shall be levied, &c.: *And provided further*, That no cotton goods, having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods of that number of threads." (See 12 Stat., 543, 553, Sec. 10.)[1] As the cotton of which the braids were composed was not shown to be of the kind mentioned in the act of 1862, as there was no provision in that act for braids, *eo nomine*, the words "not otherwise provided for" in the hat-material clause in that act could have no exclusionary force, and it was entirely unnecessary to consider their grammatical construction. That this was the view of the court is clear if one reads into the opinion the case of *Arthur* v. *Lahey* (96 U. S., 112), one of the cases cited, and in which the words "not otherwise herein provided for" were considered

It being clear, then, that the goods were embraced within the language of each of the rival provisions, assuming, contrary to the fact as is believed, that there was in force any law describing "cotton braids" upon what grounds did the court select the hat-

[1] The section, as far as it applies to cotton goods, is printed as Exhibit XXVI.

material provision in an earlier act, rather than the cotton provision in the later act? Again, reading into the opinion the opinions in the cases cited, all prepared by Mr. Justice Hunt, it is evident that the controlling fact in the case was, in the mind of the court, the fact that the goods were commercially known as "hat braids." This fact was regarded as excluding the goods from the designation "cotton braids" in the act of 1864, for all purposes of duty. This necessitated a choice between "all manufactures of cotton" and "braids used for making or ornamenting hats," and the latter was chosen as being the "specific designation." That such was the view of the case taken by the court seems evident from the cases cited. In *Arthur* v. *Morrison*, certain veils made of silk, but commercially known as "crape veils," were held to be dutiable, not at 60 per cent. as "silk veils" under the act of June 30, 1864 (13 Stat., 210, sec. 10), but at 50 per cent. under the residuary clause in the silk section of that act providing that rate of duty for "all manufactures of silk," etc. In *Arthur* v. *Lahey*, certain laces made of silk, but commercially known as "thread laces," were held not dutiable at 60 per cent. as "silk laces," under the act of June 30, 1864, but dutiable at 30 per cent. under the act of March 2, 1861 (12 Stat., 190), as "thread laces," they being there enumerated *eo nomine*. In *Arthur* v. *Unkart*, it was said that certain gloves, because commercially known as "patent gloves" or "silk-plaited gloves," were not "silk gloves." It would seem clear from this that the court regarded the fact that the braids were commercially known as "hat braids" as excluding them absolutely from the designation "cotton braids," and requiring a choice between "all manufactures of cotton" and "braids used for making or ornamenting hats, etc., composed of any vegetable substance." As between those two designations, there can be no doubt which is the specific one.

Had this case arisen at a later term, or at the same term, but not in connection with the cases cited, it would, doubtless, have been more fully, and perhaps differently, treated. If what has been said correctly represents the view of the case taken by the court, the mistake in that view is in supposing that the mere fact that the braids were commercially known as "hat braids" excluded them absolutely from the designation "cotton braids." That can be true only on the theory that "cotton braids" is a name for goods. At the time this case was decided the court had not clearly drawn the distinction between a denominative designation and a descriptive designation in tariff laws. That was first done in the opinion in *Solomon* v. *Arthur* (102 U. S., 208, 212), prepared by Mr. Justice Bradley. In the subsequent case of *Barber* v. *Schell* (107 U. S., 617, 621), Mr. Justice Blatchford, speaking of the following words (found in act of July 30, 1846, c. 7): "Cotton laces, cotton insertings, cotton trimming laces, cotton laces and braids," said: "The designations qualified by the word 'cotton,' in the act of 1846, are designations of articles by special description, as contradistinguished from designations by a commercial name or a name of trade. They are designations

of quality and material." In view of this it can not be said that braids commercially known as "hat braids" are not also "cotton braids" if they are composed of cotton. *Arthur* v. *Lahey* represents the law upon this point. The fact of a commercial name, taken in connection with the fact that that commercial name is found in the revenue acts, excludes goods from descriptive designations. There is really nothing in *Arthur* v. *Unkart* or *Arthur* v. *Morrison* opposed to this. In the former case the gloves were not made of silk, so they were not classifiable as "silk gloves," even though the commercial name "patent gloves" was not found in the statutes. In the latter case the veils were commercially known as "crape veils." It does not appear that that name was in the statutes, yet the court refused to classify them as silk veils. This is fully explained by the somewhat peculiar way in which the case came up. To the declaration of the plaintiffs below, the suit being to recover money illegally exacted, the collector pleaded "that the moneys sued for were a part of the lawful duty of 60 per cent. for "silk veils" imported by the plaintiffs. The plaintiffs "replied that *they were not 'silk veils,'* but a manufacture of silk, and were 'crape veils,'" and were so commercially known and bought and sold at the date of the act. The collector *demurred* to the replication. The demurrer was overruled, and the collector sued out a writ of error. On that record the court could not have said the veils were "silk veils."

In view of what has been said, if the words "hat braids" had been found in the statutes, the *Zimmerman* case would have been within the principle of *Arthur* v. *Lahey*. But those words were not found in the statutes. The only words found there were "braids used for making or ornamenting hats, bonnets, and hoods, composed of any vegetable substance." That is not a commercial designation, but a special description. The goods, then, were not excluded from the words "cotton braids" in the act of 1864 by the mere fact of having a commercial name. They did come under those words. They were also within the special descriptive designation "braids used for making * * * hats," etc., as they were braids, and it was conceded they were used exclusively for trimming hats and were also composed of the "vegetable substance" cotton. The question, then, was, under which of these special designations are the goods dutiable? The judgment of the court says, under the designation of "braids, used for * * * hats," etc.

Both designations were very special, but this answer may be right, considering *the character of the goods*. As evidence of the character of the goods involved, the facts are given that they were commercially known as "hat braids," and that they were *exclusively* used for hats. Keeping in mind this character of the goods, the hat-material provision perhaps furnished a much more apt description of the particular goods before the court than the description "cotton braids." Just as a man buying a coat rejects one that fits him fairly well and takes one that fits him better, so

the words in the hat-material clause appear to be a better "fit" for the goods involved in the case than the words "cotton braids" in the cotton clause. (See *Arthur* v. *Sussfield*, 96 U. S., 128, 130.) They aptly described the goods—so aptly, indeed, as to make it probable that Congress may have had those very goods in mind when it put the words into the act, and to repel the suggestion that the goods were intended to be dutiable under any other words. (See *Solomon v. Arthur*, 102 U. S., 208, 213.)

The case is special in its character. Its principle seems to be this: *Where each of two special descriptive designations in a tariff act is literally applicable to certain merchandise, the merchandise should be classified for duty under that one of the two designations, which so aptly describes it as to give a reasonable basis for the belief that Congress may have had that very merchandise in mind when it inserted the designation in the statute.* The case indicates one description of goods that were held dutiable as materials for hats. One can not say, and keep within authority and out of opinion, that another description of goods, resembling those involved in the case only remotely, would also be held dutiable under the clause, even though they may be within the popular meaning of the words in the clause. The fact that one suit of clothes fits one man better than another suit, does not prove that the first suit fits *any* man who can get into it better than the second.

It will be seen later, when we come to notice the practice of the Treasury Department in classifying goods as materials for hats, both before and after the act of 1883, that it has always regarded the *Zimmerman* case as furnishing a standard, or sample, of the kind of goods legally dutiable as such. It will be remembered that there were many cases depending upon the decision of this case. Before showing how these were disposed of, or how the decision influenced the practice of the Treasury Department, the authority of the case upon the subject of the dutiability of *silk* goods as hat materials before the act of 1883 will be considered.

Under the legislation upon materials for hats, and upon silk and silk goods, as it existed from 1861 to 1864, the question whether any silk goods were legally dutiable as material for hats was of no practical importance. The rate of duty prescribed by the hat-material provision was 30 per cent., and for the greater part of the merchandise specifically named therein, as well as for "all other manufactures of silk, or of which silk is the component material of chief value," the silk section prescribed the same rate of duty. The rate of duty upon "silk velvets, valued at three dollars per square yard, or under," was 25 per cent., 5 per cent. lower than the hat-material rate. Under this legislation silk velvets used for hats could have been classified in the hat-material clause only under the word "trimmings." As between "silk velvets" and "trimmings," silk velvets must certainly be taken as the specific designation (132 U. S., p. 619). This would be so, too, even if the velvets were commercially known as "trimmings," for that term, even as a commercial term, applied to velvets or

ribbons, etc., is descriptive, and less specific than "silk velvets." (*Solomon* v. *Arthur*, 102 U. S., 208.)

By the act of June 30th, 1864, the duty upon silk and silk goods was increased very considerably; upon "spun silk for filling in skeins and cops" alone, was the duty less than 30 per cent. The hat-material provision of the act of July 14th, 1862, remained in force, and that, as has been said, levied a 30 per cent. rate of duty. Under this legislation a case exactly like the *Zimmerman* case, only involving silk goods, may be supposed. In the silk section of the act of 1864 there is a special provision for "silk braids;" in the hat-material provision of the act of 1862 there is a special provision for "braids used for making or ornamenting hats," etc. The words "not otherwise provided for" in the latter provision are of no importance, whether they modify "braids," or "substance" or "material," because in the act of 1862 there is no provision for silk or silk goods. The fact that the goods are silk does not prevent the application of the decision in the *Zimmerman* case.

In the act of 1864 the words "laces" and "trimmings" are found; they also occur in the hat material clause of the act of 1862. But the word "trimmings" in neither act can include silk ribbons, galloons, velvets, fringes, etc., these being specifically mentioned in the silk section of the act of 1864.

Applying the *Zimmerman* decision to silk goods under the acts of 1864 and 1862, the extent that one can go and keep within authority is to say that "silk braids," "silk laces," and "silk trimmings," not being silk ribbons, silk galloons, or any other article specifically mentioned in the silk schedule, were legally dutiable as materials for hats if *essentially* adapted for the purpose of making or ornamenting hats. If it were shown that they were commercially known as "hat braids," "hat laces," or "hat trimmings," and also that they were used *exclusively* for making or ornamenting hats, there could be no doubt as to their character as materials for hats within the meaning of the hat-material clause. How much less proof than that would be sufficient to show their dutiable character as materials for hats must be mere matter of opinion.[1]

Under the Revised Statutes, the law, it seems clear, was different. The silk section and the hat-material clause are there found in the same act. The words "not otherwise provided for" in the latter become important. It is entirely immaterial whether they modify "braids," "laces," and "trimmings," or "substance" and "material." On either view they operate to exclude silk goods from the clause in which they occur. The silk section provides for the substance silk, and for all "manufactures of silk." The words "not otherwise provided for," meaning "not otherwise provided for in this act," if they modify either "substance" or "material," operate to exclude from the hat-material clause all silk goods. The silk section also provides specially for "silk braids," "silk laces," and "silk trimmings," and those words in

[1] See Exhibit V.

the section are not modified by "not otherwise," etc. If the words "not otherwise provided for" (in this act) in the clause "hats, and so forth, materials for," modify "braids," "laces," and "trimmings," they must operate to take out from under those words braids of silk, laces of silk, and trimmings of silk. Silk goods, therefore, were not dutiable under the Revised Statutes as materials for hats.

The next act is that of February 8, 1875, the first section of which is devoted to silk. In this act the practice of enumerating silk goods specifically by name, as had obtained in the previous acts, as, *e. g.*, "dress and piece silk," "velvets," "ribbons," "vestings," "pongees," "scarfs," "handkerchiefs," etc., was abandoned, and in place thereof appears the general language, to wit: "All goods, wares, and merchandise * * * made of silk, or of which silk is the component material of chief value, *irrespective of the classification thereof for duty by or under previous laws, or of their commercial designation*." The hat-material provision of the Revised Statutes was not affected by this act. As between that provision and the language quoted from the act of 1875, there could be no doubt as to the proper classification of any article of silk. As between the two, no silk braids, silk laces, or silk trimmings, could have been classified as materials for hats. That is perfectly clear. In 132 U. S., p. 621, Mr. Justice Blatchford said that "of course, under the act of 1875," silk ribbons "would have been dutiable at 60 per cent."

But the first section of the act contains this proviso: "*Provided*, That this act shall not apply to goods, wares, or merchandise which have, as a component material thereof, twenty-five per centum or over in value of cotton, flax, wool, or worsted." The effect of this proviso was to remand goods covered by it back into the Revised Statutes, to be there classified as if the act of 1875 had never been passed. Obviously, the proviso extends to some articles having silk as their component material of chief value, for articles may contain "*twenty-five per centum or over* in value of *cotton*, *flax*, *wool*, or *worsted*," and yet contain *silk* as their component material of *chief value*. Such articles, *i. e.*, articles containing 25 per cent. or over in value of cotton, flax, wool, or worsted, and yet containing *silk* as their component material of chief value, the proviso remanded back into the Revised Statutes. As has just been shown, under the Revised Statutes no silk goods were dutiable as materials for hats, so that no such articles remanded to the Revised Statutes by the proviso to the act of 1875 could have been classified as materials for hats.

The practice of the Treasury Department, at least from the date of the decision in the *Zimmerman* case, seems not to have been in accord with this view of the law. As has been stated, many cases were depending upon the result of the *Zimmerman* case. That case was decided at October term, 1877. On April 30th, 1878, in a letter to the collector at New York,[1] Secretary Sherman announced that the decision was against the Government, and

[1] Exhibit IV.

gave directions to prepare to refund the excess of duties exacted on all goods similar to those involved in that case. He went further and reversed the ruling[1] of Secretary Richardson, under which the duties had been exacted, and directed that for the future the practice of the Department should "conform to the decision of the Supreme Court." At the date of this letter the Revised Statutes were in force and governed the rate of duty to be imposed upon imports. The Secretary referred to the Revised Statutes and assumed that the decision in the *Zimmerman* case applied to importations made under them, as well as to those made under the acts of 1862 and 1864, the acts upon which that case was decided.[2] If the view heretofore stated in regard to the classification for duty of silk braids under the Revised Statutes is correct, it follows that under those statutes cotton braids could not be classified as material for hats. In Title 33, Schedule A, is a provision for "cotton braids," and for "all other manufactures of cotton," so that the words "not otherwise provided for" in the hat-material clause of the Revised Statutes have the force of excluding from that clause all braids made of cotton, on any view of their grammatical construction. Hence, the *Zimmerman* case can not be regarded as deciding the proper classification for braids of cotton under the Revised Statutes.[3]

Assistant Secretary French, on October 21st, 1882, followed[4] the above decision of Secretary Sherman. He states expressly that the *Zimmerman* case was decided "under the provisions of the Revised Statutes."[5] He went further and applied the decision to "silk and cotton hat bands over and under 25 per cent.," *i. e.*, some having over 25 per cent. in value of cotton, others less. The former, he said, were dutiable under the act of 1875, the latter as materials for hats under the Revised Statutes, "when the appraiser is satisfied that they are, in fact, hat trimmings as distinguished from 'ribbons,' and can be used for that purpose only." The goods before the Assistant Secretary, if of silk chief value, were dutiable under the Revised Statutes either as "silk ribbons" or "silk trimmings." (*Edelhoff* case, 132 U. S., 614, 620,621.) Mr. French assumed that the proviso to the act of 1875 operated to remand everything containing silk chief value either into the residuary clause of the silk section of the Revised Statutes or to some section other than the silk section. That does not seem to

[1] Exhibit H.

[2] The importations in the *Zimmerman* case were made in 1873 and 1874 (November to March, see Record.) The Revised Statutes were approved on June 22, 1874.

[3] The provision in the Revised Statutes for "cotton braids" and "all other manufactures of cotton" was taken from the act of 1864. The hat-material clause was taken from the act of 1862. These acts were involved in the *Zimmerman* case. It has never been the practice, it is believed, under the Revised Statutes, to go back to the original acts in order to determine whether the words "not otherwise," etc., have any exclusionary force.

[4] Exhibit V.

[5] This was not true; an examination of the original record shows that the last importation in controversy was in March, 1874.

be correct. Ribbons, *e. g.*, of silk chief value and containing 25 per cent. or over in value of cotton, would be dutiable only under the Revised Statutes as "silk ribbons" at a rate of 60 per cent.

Notwithstanding these Treasury decisions, the law just prior to the act of 1883 seems to have been that no silk braids, silk laces, or silk trimmings, even if commercially known as "hat braids," "hat laces," or "hat trimmings," and even if used exclusively for making or ornamenting hats, bonnets, and hoods were dutiable as materials for hats. They were held down under the duty on silk goods, if containing less than 25 per cent. in value of cotton, flax, wool, or worsted, by the words, "irrespective of the classification thereof for duty by or under previous laws or of their commercial designation," in the act of 1875; if containing 25 per cent or over in value of cotton, flax, wool, or worsted, by the special designations, in the Revised Statutes, "silk braids," "silk laces," and "silk trimmings." All were dutiable at 60 per cent ad valorem.

In this state of the revenue law with reference to these goods the tariff act of 1883 (22 Stat., 488), was passed. The silk section or schedule and the hat-material provision are given below:

SCHEDULE L.—*Silk and silk goods.*

Silk, partially manufactured from cocoons, or from waste silk, and not further advanced or manufactured than carded or combed silk, fifty cents per pound.

Thrown silk, in gum, not more advanced than singles, tram, organzine, sewing silk, twist, floss, in the gum, and spun silk, silk threads or yarns, of every description, purified or dyed, thirty per centum ad valorem.

On lastings, mohair cloth, silk twist, or other manufactures of cloth, woven or made in patterns of such size, shape, or form, or cut in such manner as to be fit for buttons exclusively, ten per centum advalorem.

All goods, wares, and merchandise, not specially enumerated or provided for in this act, made of silk, or of which silk is the component material of chief value, fifty per centum ad valorem.

Hat-material provision.

Hats, and so forth, materials for: Braids, plaits, flats, laces, trimmings, tissues, willow, sheets, and squares, used for making or ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm-leaf, willow, hair, whalebone, or any other substance or material not specially enumerated or provided for in this act, twenty per centum ad valorem.

The hat-material clause of the act of 1883 does not differ much from the similar clause in the Revised Statutes.[1] The noticeable fact in regard to the silk schedule is its very general character. It does not return to the style of the acts of 1861 and 1864 and of the Revised Statutes, but preserves and continues that of the act of 1875, being even more general in its character than the silk section of the latter act. Had the framers of the silk section in the act of 1883 copied from the act of 1864 or from the Revised Statutes, or had they, in adopting the style of the act of 1875, also copied from that act the words "irrespective of their commercial designation," no "hat-trimmings controversy" could have arisen. The failure to do either one of these things made it possible for importers to put forward their claims. The importers base their claims under the act of 1883 upon these propositions:

First, that the words, "not specially enumerated or provided for," in the hat-material clause modify the words "braids," "plaits," "trimmings," etc., rather than the words "substance" or "material." On this construction, no article can be excluded from the clause even if made of a substance or material not mentioned therein, *e. g.*, wool, cotton, or silk, and even though that substance or material is elsewhere in the act provided for.

Second, that the word "trimmings" has a broad meaning. As this is an important word in their case, the sense in which they insist it was used by Congress is here given in their own words: Unless it be shown that the word "trimmings" is restricted in trade and commerce to some particular articles to the exclusion of all others, that term should be given its natural signification, which would include all articles, of whatever material composed, the predominant use of which is "to trim."[2]

Third, the words "used for making or ornamenting hats, bonnets, and hoods," mean "*chiefly used* for making or ornamenting hats, bonnets, and hoods."

These propositions evidently reduce the whole clause to this: "Materials used for making or ornamenting hats, bonnets, and hoods."

They insist,[3] too, on this construction in spite of the evident contradiction involved in the expression "trimmings (using the word in the sense given it by the importers, *supra*) used for making hats, bonnets, and hoods." On these propositions, the question whether any article is within the clause depends entirely on whether it is *chiefly used* for making or ornamenting hats, bonnets, and hoods. They then come to their final proposition.

Fourth. That the hat-material clause, even on this construction of it, is a special enumeration or provision in the sense of the words "not specially enumerated or provided for in this act," in the

[1] The word "vegetable" is omitted before "substance."

[2] Record, *Hartranft* v. *Meyer*, p. 381, No. 12; *Cadwalader* v. *Wanamaker*, p. 318, No. 7.

[3] See record, *Hartranft* v. *Meyer*, requests for instructions presented on behalf of plaintiffs and instructions given.

clause in the silk section laying a duty on "goods, wares, and merchandise made of silk." Hence, they say that any article made of silk, shown to be chiefly used for making or ornamenting hats, bonnets, and hoods, is within the hat-material clause, and, though also within the clause laying a duty on "goods, wares, and merchandise, not specially enumerated or provided for in this act, made of silk," are excluded from that clause, by its own express language, because they *are* "specially enumerated or provided for" in the hat-material clause. Thus, they say, their claims are founded upon the express written word of Congress.

All of these propositions, except the last, might have been advanced at any time subsequent to 1862. But the last is absolutely essential to their case, and at no time prior to the act of 1883 could it have been maintained. Under all the acts from 1861 down to 1875, as against the hat-material clause, and as respects any article of silk that could be got under it, the provision for silk goods contained the special enumeration. Under the act of 1875, from which the silk section of the act of 1883 appears to have been taken, all silk goods containing less than 25 per cent. or over in value of cotton, flax, wool, or worsted were expressly included in the general words in the silk section: "Goods, wares, and merchandise made of silk," etc. All silk goods containing 25 per cent. or over in value of cotton, flax, wool, or worsted, that could be dutiable as materials for hats, were dutiable under specific enumerations in the silk section of the Revised Statutes.

Referring back to the law as it existed prior to 1883, if any silk goods are legally dutiable under the act of that year as materials for hats, it means that Congress reduced the duty upon those goods in 1883 40 per cent., for any silk goods that can be brought within the hat-material clause of the act of 1883, which lays a duty of 20 per cent., were dutiable prior to that act at 60 per cent. That Congress never intended to reduce the duty to that extent on any silk goods that can be shown to be within the words "braids, laces," and "trimmings, used for making or ornamenting hats," on any view of their construction, is clear. The act of 1883 was in terms passed "to reduce revenue." But it was not passed to destroy revenue, much less was it passed to injure vested rights.[1]

The claims of the importers can not be sustained without asserting that Congress gave statutory expression to an intention that it never really had.

The task of first construing and applying the act of 1883 devolved upon Secretary Folger. The first question considered was whether or not the words, "not specially enumerated or provided for," in the hat-material provision, modified the words "substance or material." The question was submitted to Attorney-General Brewster.[2] In submitting the question, Mr. Folger said:[3] "There is, I think, strong grounds for adopting the view that the phrase, not specially enumerated or provided for * * * refers to materials of which the articles are composed, so that braids, plaits, flats, laces, trimmings, etc., which are made of silk

[1] Exhibit VI (B). [2] Exhibit VI. [3] Exhibit VI (A).

or of wool, which are substances specially enumerated or provided for, do not come within that provision." The files of the Department of Justice show that the question was referred by the Attorney-General to Mr. A. J. Bentley, "Law clerk and Examiner of Titles," and that he prepared the opinion,[1] which was signed and sent by the Attorney-General to the Secretary of the Treasury. This opinion was to the effect that the words applied "to the articles (braids, plaits, laces, trimmings, tissues, etc.) used for making or ornamenting hats, bonnets, and hoods, etc., and not to the material of which those articles are composed."

The opinion was given on February 15th, 1884, and on February 25th, 1884, Secretary Folger published it in the form of a circular[1] for the guidance of collectors. The opinion was treated as decisive of the question whether silk goods were dutiable as materials for hats, and from the date of its publication by Mr. Folger down to the Maynard letter of November 26th, 1888,[2] silk goods were classified as materials for hats.

In publishing the opinion, Mr. Folger announced that "the limitations under which it will be enforced are set forth in decision 5542.[3] That is the decision of Assistant Secretary French, already mentioned, made before the act of 1883. In that he described the kind of goods dutiable as materials for hats, as goods which are "essentially" materials for making and trimming hats and bonnets. Goods can be classified as such, he said, only "when the appraiser is satisfied that they are hat trimmings as distinguished from 'ribbons,' and can be used for that purpose only;" that the class of goods so dutiable does not include "merchandise, consisting of articles which may be used for hats, and also for other purposes, or which, as shown by their general appearance, are not used" for making or ornamenting hats. In making these rulings the Assistant Secretary referred to the *Zimmerman* case, and evidently had in mind the goods in that case as a standard of hat materials. He was endeavoring to apply the decision to "silk and cotton hat bands." On March 7, 1884, referring to this citation of the decision by Mr. French, Secretary Folger said:[4] "The allusion * * * to decision 5542[3] was intended to accomplish this result, *that no goods should be classified 'as materials for hats unless it appeared that they were by their style and character evidently fitted only for use in making or ornamenting hats, bonnets, and hoods, whether they were ribbons or other classes of fabrics.*" This ruling as to the character of the goods dutiable as materials for hats, under the act of 1883, was adhered to by the Department down to the decision in the *Langfeld* case, in 1888. The ruling goes back to the *Zimmerman* case. It was founded upon a decision of Assistant Secretary French, and the latter decision was founded on that case.

The collectors at the various ports differed as to the meaning of

[1] Exhibit VI (C).
[2] Exhibits XV and XVI.
[3] Exhibit V.
[4] Exhibit VII.

the word "only" in the above ruling. Some construed it liberally, some strictly. On February 18th, 1885, Secretary McCulloch ruled[1] that the Department did not intend that the word *only* should be literally construed; that "goods commercially known as hat trimmings, and generally used for trimming hats, although possibly used occasionally for other purposes, are entitled to classification as hat trimmings." The Department, under Secretary Manning, adhered to this ruling of Secretary McCulloch. On May 4th, 1885, a circular[2] was published, "for the information and guidance of the proper officers of the customs," in which Assistant Secretary Fairchild laid down the two following rules:

(1) "Goods which are, by their style and character, fitted for use as hat trimmings, and which are commercially known as hat bands or hat trimmings, and which are generally used for trimming hats, are not to be removed from the classification of hat trimmings because they may be, and sometimes are, used for other purposes than the trimming of hats."

(2) "The contrary of this proposition is that goods which by their style and character are not fitted for use as hat trimmings, and which are not commercially known as hat bands or hat trimmings, and which are not generally used for trimming hats, are not to be classed as hat trimmings."[2]

The Treasury Department had now established and clearly formulated into words a construction of the hat-material clause. Uniformity of construction at the various ports was secured. But uniformity of construction did not secure uniformity of application. At some ports certain goods were classified as trimmings used for hats, while at other ports the same goods were classified otherwise. To obviate this difficulty a Conference of the Appraisers at New York, Boston, Chicago, Philadelphia, and Baltimore was called, and met in New York on December 2, 1886, and reported on December 21, 1886.

The method adopted to secure uniformity in the application of this clause appears from the report.[3] Samples of goods claimed by importers to be materials for hats were taken. The rules laid down by the Treasury Department were then applied to them, and a rate of duty agreed on; goods corresponding to the samples used to pay the rate agreed upon by the Appraisers. The Appraisers then arranged the samples into seven books. Only one book of samples, Book No. 1, represented goods properly classifiable, in the opinion of the appraisers, as materials for hats. All the other samples except those in Book No. 6, only a portion of which were silk, were thought to represent goods legally classifiable only as silk goods. The decisions upon the various samples

[1] Exhibit VIII.

[2] "Attorney-General Garland has rendered an opinion (unpublished) to the Secretary of the Treasury in approval of the construction stated in this order." (Brief for defendants in error, *Edelhoff* case, p. 10.) No copy of the opinion referred to can be found. This is probably the opinion referred to in Syn. Treas. Dec. 6823.

[3] Exhibit X.

were not unanimous. It appears that the report was adopted by the Secretary of the Treasury.[1]

Setting aside the question as to whether any silk goods are dutiable as materials for hats, the issue between the Treasury Department and the importers at this time is clear. The Department, in effect, asserted that when Congress used the words "braids, laces, trimmings, etc., used for making or ornamenting hats, bonnets, and hoods," it had in mind and intended to describe a specific class of goods. The effort of the Department was to define the class. It confined it to goods habitually and customarily used for hats, because fitted only for that purpose by their nature, just as a hat is fit only for a covering for the head. But as a hat does not cease to be a hat if used for some purpose other than as a covering for the head, so the Department ruled that articles properly belonging to the class intended by Congress are not taken out of the class because they may be, and sometimes are, used for purposes other than making or ornamenting hats, bonnets, and hoods.[2] The view of the importers, on the other hand, asserts that Congress had nothing very special in mind when it used the words "braids, laces, trimmings, used for making or ornamenting hats, bonnets, and hoods;" that those words in the statute are mere form without any known settled content; that the content depends entirely on circumstances. Such seems to be the meaning of the proposition that whether an article is covered by the words or not depends on its *chief use* for making or ornamenting hats, for this chief use is not made to depend upon anything in the nature of the article itself, but upon the accident that for one season or so fashion dictates that it shall be so used. Fashion may, the very next season, require the same article to be used on dresses. Then, it is asserted, the duty upon it goes up from 20 to 50 per cent.

On March 19th, 1888, the case of *Hartranft* v. *Langfeld* (125 U. S., 128) was decided. It was a proper case for a full discussion of all the points involved in the whole controversy. Certain goods had been imported and classified by the collector as dutiable at 50 per cent. ad valorem, under the act of 1883, as goods made of silk or of silk as their component material of chief value. The importers protested, claiming that the goods were dutiable at 20 per cent., under the same act, as materials for hats. On appeal from the collector, the Secretary of the Treasury affirmed his decision. The case was then taken to the circuit court, where the decision of the collector was reversed and the goods held dutiable at 20 per cent. and a judgment entered entitling the importers to a recov-

[1] The authority for this statement is a letter from Mr. Fairchild to Mr. Tremain, principal counsel for the importers, dated January 12, 1887. The letter reads: "In reply to your letter of the 7th instant, I have to inform you that the report of the conference of U. S. appraisers, on the subject of the classification of hat materials, has been received by the Department, and that its conclusions were adopted under date of December 30th last in a letter addressed to the collector of customs at New York, who will, on application, advise you of its purport." (Mr. Tremain's brief in *Edelhoff* case, Appendix, p. 12.)

[2] Exhibit VIII.

ery of the difference between a 50 per cent. rate and a 20 per cent. one. The case was taken to the Supreme Court by the Government upon a writ of error.

The printed record filed in the case shows that, at the start, four kinds of goods were involved, to wit, "cotton velvets," "plushes," "ribbons," "piece velvets," all except the cotton velvet made of silk or of silk as their component material of chief value; that at the opening of the trial the plaintiffs dismissed their claim as to the cotton velvets. (Rec., p. 9.) This left three kinds of goods in controversy—plushes, ribbons, piece velvets, the latter being spoken of as millinery velvets by counsel and witnesses. (Rec., pp. 15, 17, 19, 20, 21, 23, 24.) As to the plushes, a verdict for the plaintiffs was directed. (Rec., p. 33.) As to the remaining merchandise, described by the judge as consisting of "velvet ribbon, and what has been by a number of witnesses denominated millinery velvet," the evidence introduced bore entirely on the question whether the goods were used principally on dresses or on hats, and was highly conflicting. The court charged, in effect, that "the use to which these articles are chiefly adapted and for which they are used" determines their character within the meaning of the hat-material clause in the act of 1883; if "the articles are indifferently adapted for use for different purposes * * * it is the predominant use to which they are applied that determines their character; * * * you will therefore determine to which use these articles are chiefly devoted; if they are hat trimmings, and used for making and ornamenting hats, then the rate of duty imposed was excessive, and the plaintiff is entitled to recover the excess; * * * the question is * * * one of fact, * * * What is the predominant use to which these articles are devoted?" The jury returned a verdict for the plaintiffs for $856.56.

In the Supreme Court the case was treated as involving only velvet ribbons. At the very beginning of the opinion, it is said, "the goods which were the subject of duty were velvet ribbons." * * * On the record[1] the case involved ribbons and millinery velvets. The view that the case involved only ribbons, doubtless, had something to do with the manner in which the first point for the Government was answered. That point was that the court below, in its charge, overlooked the word "trimmings"; that it substituted the word "materials" therefor, in effect, and simply left to the jury the question whether the goods were "*materials* used for making or ornamenting hats," when he ought to have left the question, whether they were "*trimmings* used for making

[1] The case did not really involve ribbons at all. The verdict was in favor of the Government as to the ribbons. This could have been got into the record by a special verdict. An examination of the papers in the case, showing the total amount claimed, the amount claimed on each set of goods, and a comparison of this showing with the amount of the verdict, proves that the jury must have found for the Government on the ribbons. The district attorney who conducted the case reported a verdict for the Government as to the ribbons. Exhibit XXIII, I, B, 2 and XII.

or ornamenting hats." The reply of the court was, that "this is an entire misconception of the charge"; that it was an admitted fact in the case that the articles were trimmings, and that the whole dispute was as to whether they were used for dresses or for hats. Had the court not overlooked the fact that the case involved piece velvet goods as well as ribbons, the point might not have been answered in the same way.

The point of the Solicitor-General seems to have been, really, that no article or material can come within the word *trimmings* unless there is something distinctive about its style, make, and character; just as no article can be a braid unless it has a distinctive style; that piece goods, that must be cut up and handled in various ways before they can be applied to any ornamenting use are not within the word *trimmings;* just as piece goods that may be cut up and made into *braids* are not within the word braids before they are cut up. That had been the position of the Treasury Department for a long time. His aim seems to have been to get a definition of the kind of goods dutiable as "trimmings" for hats. The reply of the court seems to assume that any article, or material, whatever be its style, or shape, or character, comes within the word "trimmings," if its predominant use be to trim. That view, for all practical purposes, annihilates the word trimmings, for if an article is used principally for ornamenting hats it will necessarily be a trimming. So that in no case, arising under the hat-material clause, can there be a serious dispute upon the question whether the goods are "trimmings" or not. The controversy must center entirely upon the words "used for making or ornamenting hats," etc. Such has been experienced in later trials.

The court also remarked that it thought the Solicitor-General "very properly abandoned" the point that ribbons can not be classified as "trimmings used for making or ornamenting hats, bonnets, and hoods, unless shown to have been used exclusively for that purpose." The Solicitor-General criticised the following charge: "The jury must be satisfied that the use to which the goods are chiefly applicable and for which they were employed, was in making or ornamenting hats, bonnets, and hoods." His criticism was that it would require the collector to suspend assessment until he should know how the goods were used or employed, and the use might not take place for years. The court pronounced this "hypercritical," and said: "The language does not admit of any such construction. It means for which they were *habitually* employed, or *customarily* employed, or *usually* employed." All that can be found in the opinion upon the meaning of the word "used" is contained in these passages.

The last point made by the Solicitor-General was upon the refusal of the court to instruct that, if the goods were within both the hat-material clause and the silk clause, the 50 per cent. rate of the latter clause should be assessed, as being the higher rate. He supported it merely by a citation of the following provisions from section 2499, Revised Statutes: "If any nonenumerated

article equally resembles two or more enumerated articles on which different rates of duty are chargeable, there shall be levied, collected, and paid on such nonenumerated article the same rate of duty as is chargeable on the article which it resembles paying the highest rate." The court said that the section did not apply, because the goods were enumerated goods and not nonenumerated goods.

This point deserves attention. The Solicitor-General had first argued in support of what he conceived to be the true intention of Congress in regard to the kind of goods dutiable as "trimmings" used for hats. Assuming himself beaten on that point, he turns and adopts the construction of the importers, and urges that on their own view of the hat-material clause they could not recover. On his own view, and on the construction of the Treasury Department, they do get a share of the loaf, but on their own view, this point says, they get nothing at all. It is not clear that this is not correct. After they get their goods under the hat-material clause, in order to keep them there for purposes of duty rather than under the silk clause, they say they are excluded from the silk clause by the words "not specially enumerated or provided for" in that clause. That can not be true unless the hat-material clause *is* a special enumeration, or provision, in the sense of those words. Now, on the view of the importers, is it in any sense a special enumeration or provision? It would seem clear that it is not, that it is an extremely general enumeration. The importers then clearly lose the support of the words "not specially enumerated or provided for." These latter words are, so to speak, the *cover* of their case. The thing covered is the designation "trimmings used for making or ornamenting hats." If this latter is stretched too much the cover must certainly fly off, for it can not stretch. Losing the *written word* of Congress as a cover for their case, they must get another in order to hold their goods to the 20 per cent. rate, and they can not get another that will shut out the real intention of Congress. The moment the written word fails them, the real intention of Congress, as gathered from other parts of the act, the history of the two clauses, the policy of the country to protect silks, is let in on their case, and once that is done the effect must be destructive.

The reply of the court to the only argument made in support of this point was correct. The clause quoted, known as the "similitude clause," by its very terms, does not apply to enumerated articles (*Arthur* v. *Butterfield*, 125 U. S., 70, 76; *Mason* v. *Robertson*, 139 U. S., 624). It was attempted to apply it to articles confessedly enumerated *twice* (see also *Arthur* v. *Sussfield*, 96 U. S., 128). The Solicitor-General dropped Revised Statutes, section 2499, just at the point where it might have been taken up with some effect. The provision in section 2499 just succeeding the one brought to the attention of the court, quoted above, reads: "And on all articles manufactured from two or more materials, the duty shall be assessed at the highest rates at which *any of its component parts* may be chargeable."

This provision was put into the tariff laws by the act of September 11, 1841 (5 Stat., 464). (*Marlot* v. *Lawrence*, 1 Blatch., 608, 610; *Stuart* v. *Maxwell*, 16 How., 150, 160.) By the act of 1883 a substitute for section 2499 was enacted. It changed the last quoted provision, enacting that "and on all articles manufactured from two or more materials the duty shall be assessed at the highest rates at which the *component material* of *chief value* may be chargeable," and added this provision: "If two or more rates of duty should be applicable to any article imported, it shall be classified for duty under the highest of such rates." It is clear that the attention of the court was not called to these statutory changes and provisions. In view of the later cases of *Hartranft* v. *Meyer* (135 U. S., 237, 239) and of *Liebenroth* v. *Robertson* (144 U. S., 35, 37, 38), where these statutory provisions and changes were commented upon, it is not certain that they do not apply to this controversy, upon the construction which importers insist is the correct one of the hat-material clause.

The judgment of the lower court was affirmed.

It can hardly be fairly said that this case finally disposed of the issues in the controversy. The question whether silk goods are dutiable at all as materials for hats under the act of 1883 was not considered. If it decides anything upon the question of the kind of silk goods dutiable as trimmings for hats, the decision can not, with confidence, be said to be against the position held by the Treasury Department upon that question. If it furnishes any principle upon this question, that principle seems to be that the words "used for making or ornamenting hats," etc., in the hat-material clause of the act of 1883, mean "habitually" used, or "customarily" used, or "usually" used for those purposes. It is not clear that the court meant to say that they mean simply *chiefly* used. The court did say that the habitual use, or the customary use, or the usual use, does not necessarily mean the exclusive use; but it is not clear that by that negative proposition the court meant to affirm that the *habitual* use of an article means its *chief* use.[1]

Judge Blodgett, sitting as judge of the circuit court of the United States for the northern district of Illinois, it is evident, did not regard the case as affirming that silk goods are dutiable as material for hats. The case was decided at the October term of the Supreme Court, 1887, on March 19th, 1888. On April 6th, 1889, the case of *Hagedon* v. *Seeberger*[2] (38 Fed. Rep., 401),

[1] Mr. REEVES, Juror. Without regard to their being habitually or continually used?

MCKENNAN, J. You need not bother yourself about the definition of words. I thought I had endeavored to use as plain language as I could, and I still see no ambiguity in the words which I employed.

Mr. REEVES. *The jury recognizes a difference between the habitual use and the chief use.*

MCKENNAN, J As I say, they need not bother themselves about the dictionary meaning. It is a matter of plain comprehension. (Record, *Cadwalader* v. *Wanamaker*, pp. 329–330.)

[2] Taken to the Supreme Court on writ of error sued out by the importer, and dismissed at the present term on motion of the plaintiff in error.

came before him. It was like all the cases in this controversy, and his honor instructed the jury to find for the plaintiff unless the plaintiff "satisfies you that the chief and preponderating use of these goods is for hat material and ornaments." Just a month later, May 6th, 1889, the case of *Walker* v. *Seeberger* (38 Fed. Rep., 724), came up for trial.[1] It differed in no material respect from the *Hagedon* case, yet he instructed the jury that their verdict must be for the defendant if they found the goods to be made of silk, or of silk as their component material of chief value. It does not expressly appear that the *Langfeld* case was referred to in the trial of these cases before Judge Blodgett, but it is impossible to suppose that his attention was not called to that case at both trials.

On April 25th, 1888, Assistant Secretary Maynard, in a letter[2] to the collector at Philadelphia, declared that the effect of the decision in the *Langfeld* case, "as it is understood by this Department, is to hold that all trimmings which are chiefly adapted for use in making or ornamenting hats, bonnets, and hoods are dutiable at the rate of 20 per cent. ad valorem. The question, therefore, as to their proper classification becomes one of fact, to be determined in the first instance by the appraiser and collector, and in the determination of that question two propositions should be affirmatively established to entitle the goods to classification at the lower rate of duty, viz: First. That the goods are commercially known as braids, plaits, flats, laces, trimmings, etc., and were so commercially known at the time of the passage of the tariff act of 1883. Secondly. That they are chiefly used in making or ornamenting hats, bonnets, and hoods."

To the extent indicated by the quotations, the rulings of the Fairchild circular of May 4th, 1885,[3] upon which the practice of the Department was based prior to the *Langfeld* decision, were modified. Comparing the quotation with those rulings, it appears that the modifications are two in number: *First*, a new element was introduced, viz, the necessity of a commercial name at the date of the act of 1883; second, the *general use* of the Fairchild circular was changed to a *chief* use.

In July, 1888, a second Conference of Appraisers was called for the same purpose as the first. The appraisers were asked to apply the rules laid down in the letter of Assistant Secretary Maynard, just noticed, to samples of goods claimed by importers to be dutiable as materials for hats. A hearing was given by the conference to a representative of the importers, to the secretary of the "Silk Association of America," and to a member of a firm of silk manufacturers. New samples were presented, but upon investigation, the appraisers concluded that the samples prepared in seven Books at the first Conference were quite as full and representative as samples of hat materials. These samples were

[1] See also *Fisk* v. *Seeberger* (38 Feb. Rep., 718), tried May 2, 1889, before the same judge.
[2] Exhibit XII.
[3] Exhibit VIII.

adopted, and a vote taken as to the proper classification, under Assistant Secretary Maynard's rulings, of goods corresponding to the samples in each Book. The vote was unanimous on Books 1 and 7. On the other Books there was a difference of opinion. The result was that this Conference agreed with the first one, and no change was recommended. It was decided that goods represented in Book No. 1 were entitled to classification as hat materials; that those represented in the other Books, except Book No. 6, were dutiable as goods made of silk; that those represented in Book No. 6 were dutiable according to material.[1] The Treasury Department[2] accepted the decision of the Board of Appraisers and directed that the Books of samples be strictly followed.

The decision in the *Langfeld* case, it thus appears, had no substantial effect on the practice of the revenue officers. Goods were classified after that decision practically as they had been before.

Soon after the adoption of the Report of the Appraisers, the Department changed its position in regard to the construction and application of the hat-material clause, and ruled[3] that it had no application at all to goods made of silk. The rules laid down in the Fairchild circular of May 4th, 1885, and in the Maynard letter of April 25th, 1888, did not make the dutiability of goods under the hat-material clause depend at all upon the substance of which they were composed. They simply attempted to define or describe the kind of goods so dutiable. Under their application as fixed by the Appraisers, some silk goods were classified as materials for hats. The extent of the claims of the importers with reference to silk goods, naturally drew attention to the question whether silk goods were dutiable at all as hat materials. The matter was considered by the Collector, the Appraiser, and the Naval Officer at New York, and they concluded that "imported merchandise, consisting of silk ribbons and other manufactures of silk, intended for use and used in making and ornamenting hats, is dutiable at the rate of 50 per cent. ad valorem under the provisions * * * for manufactures of silk and not under the provision for materials for hats," because the latter provision "specifically provides that where the material is different from that of straw, chip, grass, palm leaf, willow, hair, etc. (the materials named in the provision), and is otherwise provided for in the tariff, then the duty should be assessed according to the rate imposed on manufactures of such material, regardless of the uses to which it may be put."

On November 26th, 1888, Assistant Secretary Maynard announced[3] that the Department agreed with the view of the New York, officers, and intended to change the practice so as to make it conform thereto. In announcing this decision, the Assistant Secretary added reasons to that given by the officers at New York, which seemed to him to support the position. He said that silk goods, as such, are specifically provided for; that whether the phrase,

[1] Exhibit XIII. [2] Exhibit XIV. [3] Exhibit XV.

"not specially enumerated and provided for in this act," in the clause for materials for hats, be construed as referring to the fabric or the material, in either case, silk goods can not be classified under that clause, because already provided for at a duty of 50 per cent. He thought there was great force in the suggestion that the hat-material clause "is found in the schedule for sundries," which may be termed the "omnibus schedule of the tariff act," and which "was intended by Congress evidently to include all such articles as were not provided for in the preceding schedules, where manufactured articles are generally grouped according to the materials of which they are composed, and that if the effect of a given construction should be to transfer an article from the schedule where provision is made for the general class to which it belongs to the 'Sundries' schedule, the language employed should be clear and unambiguous." "There is further consideration," he said, "which is entitled to weight, which is, that if the articles are of such a character that two or more rates of duty would be applicable, the case falls within section 2499 of the Revised Statutes, and they must be classified for duty under the highest of such rates." As the practice had been under the previous rulings, which had been in operation for some time, to admit some silk goods at the lower rate, in order to prevent any injustice by a sudden change of classification, it was decided to suspend the application of the new ruling until January 1st, 1889.[1] It might have been added that when silk is taken from its proper place in Schedule L, it is specially mentioned as "hatters plush composed of silk."

The practice of the Treasury Department being thus put upon the proposition that no silk goods were dutiable under the hat-material clause, the case of *Robertson* v. *Edelhoff* (132 U. S., 614) came up in the Supreme Court, and was decided on January 6th, 1890. Silk ribbons had been imported and assessed, as goods made of silk, at 50 per cent. The importers protested that they were dutiable only at 20 per cent., under the clause for "hats, and so forth, materials for." The ribbons were known as "hat bands," or "flat hat bands," or "hat ribbons." At the trial there was no contest as to their use. It was conceded that they were used exclusively for ornamenting hats. In the opinion of the Supreme Court, written by Mr. Justice Blatchford, it is said: "On the trial the undisputed evidence was that the articles in question were used exclusively as trimmings for ornamenting hats and bonnets, and had a commercial value only for that purpose. The defendant offered no evidence on that subject in contradiction of that put in by the plaintiffs."

The Government asked the court below to direct a verdict in its favor upon the ground that the clause for "'hats, and so forth, materials for' must be construed to embrace only articles made of a substance or material not elsewhere in the act specially enumerated or provided for, and articles made only of straw, chip, grass,

[1] Exhibit XVI.

palm leaf, willow hair, whalebone, or of some other *like* substance or material." The request was denied, and the Government excepted. A verdict for the plaintiffs was then directed, judgment was entered thereon, and the case was taken to the Supreme Court on writ of error.

On this record there was but one question, viz., are silk ribbons known as "hat-bands," and used exclusively for ornamenting hats and hoods dutiable as "trimmings, used for making or ornamenting hats," etc.? Under the practice[1] of the Treasury Department prior to Janaury 1st, 1889,[2] ribbons, apparently exactly like those involved in the case, had been constantly classified under the hat-material clause. It was conceded in the case that they were so classifiable, unless the circumstance that they were made of silk forbade it. The precise question then was whether they were excluded from that clause by the simple fact that they were composed of silk. The Solicitor-General argued that the word *like* must be inserted before the word substance in the clause for "hats, and so forth." The basis of the argument appears from the reply of the court thereto, which was as follows: "We can not agree with the contention of the defendant that the words 'any other substance or material' are to be read as if they were 'any other like substance or material,' because, while straw, chip, grass, palm-leaf, willow," are vegetable substances, 'hair' and 'whalebone' are animal substances. There is no identity of genus among the two descriptions of articles specifically mentioned, and we see no warrant for interpolating the word 'like' and applying it distributively to each of the two classes of substances specifically mentioned. The contention that, in the presence of the words 'any other substance or material,' the naming of seven substances specifically is surplusage and without meaning, because the words 'any other substance or material' are adequate to cover those seven substances, seems to us without force in view of the well-known tautological phraseology of provisions in tariff acts."

The Solicitor-General expressly conceded (Brief, p. 25) that he did not contend that the words "not specially enumerated or provided for in this act" modify the word "substance" or the word[3] "material," saying that he was entirely content with the opinion of Attorney-General Brewster on that point. The opposing counsel (Brief, p. 26) cited the opinion of the Attorney General. The court said it thought it "perfectly clear" that the words "composed of" and the words "not specially enumerated or provided for in this act" relate to the words "braids," "plaits," etc., and that, therefore, "the clause, as far as the question involved in the present case is concerned, would read, trimmings used for ornamenting hats, bonnets, and hoods, *and* composed of * * * any other substance or material, *and* not specially enumerated or provided for in this act."

[1] Exhibits V, VII, VIII, and Syn. Treas. Dec., 6823.
[2] Exhibit XIII.
[3] Exhibit VI, C.

The court also considered prior legislation and showed that at no time from 1861 to 1883 were silk ribbons dutiable as materials for hats; that from 1861 up to 1875 they were specifically provided for in the silk schedules under the designation "silk ribbons;" that under the act of 1875 they were dutiable as "goods, wares, and merchandise made of silk." Passing from the act of 1875 to the act of 1883, it compares the silk section of the latter act, not with the silk section in the act of 1875, but with the silk section in the Revised Statutes, stating that the duty on silk ribbons, *eo nomine*, in the latter was omitted from the act of 1883. This part of the opinion concludes thus: "Section 6 of the act of March 3, 1883, provides that on and after the 1st of July, 1883, 'the following sections,' being twenty three sections, one of which is section 2502, with schedules A to N, 'shall constitute and be a substitute for title 33 of the Revised Statutes of the United States,' thus abolishing all enactments in the original title 33 in regard to duties on imports. It is thus seen that, by the act of 1883, no duty is imposed upon silk ribbons, by name. Under the Revised Statutes of 1874 silk ribbons, being charged by name with a duty of 60 per cent., were not charged with a duty of 50 per cent. as manufactures of silk, or of which silk is the component material of chief value, not otherwise provided for, because they were otherwise provided for, and they could not have been liable to a duty of 30 per cent. as 'trimmings * * * used for * * * ornamenting hats, bonnets, and hoods, and not otherwise provided for,' because they were otherwise provided for in Schedule H, as silk ribbons by name at 60 per cent. But when we come to the act of 1883 silk ribbons are not therein specially named in Schedule L or elsewhere, and are not dutiable at 50 per cent. as silk goods not specially enumerated or provided for in the act of 1883, because in the clause in regard to 'hats, and so forth, materials for,' they are specially enumerated and provided for in that act as trimmings used for making or ornamenting hats, bonnets, and hoods, and composed of some other substance or material than the seven substances specially named, and are not otherwise specially enumerated or provided for in that act, and are therefore dutiable at 20 per cent." The *Zimmerman* case and the *Langfeld* case were then cited at length.

The opinion in this case demonstrates that from 1861 to 1883 no silk ribbons of any kind were dutiable as materials for hats, but it does not answer the question, what is there in the act of 1883 which took silk ribbons out from under the silk schedule and transferred them to the hat-material clause. From 1875 to 1883 silk ribbons were dutiable under the words "goods, wares, and merchandise made of silk." These same words are found in the act of 1883. There is certainly nothing in this case telling us just why these words mean less in the act of 1883 than they did in the act of 1875.

No case arising out of this controversy has been before the Supreme Court since the *Edelhoff* case. Bringing the three cases, the *Zimmerman* case, the *Langfeld* case, and the *Edelhoff*

case, together, do they firmly establish any rule of law upon either of the questions involved? The first question is whether silk goods are dutiable at all as materials for hats. In the *Langfeld* case the goods were made of silk, but the question whether that excluded them from the clause for hat materials was not raised or considered. In the *Edelhoff* case, this question was raised. One of the inquiries on which its solution depends, viz: whether the words "not specially enumerated or provided for" modify "substance" or "material" was expressly waived in argument. The *Zimmerman* case has no bearing upon this question because there it was immaterial what the words modified.

The second inquiry involved in the question, viz., whether the words "goods, wares, and merchandise made of silk" in the act of 1883 include fewer articles than they did in the act of 1875, can not be said to be closed by the *Edelhoff* case. On this first question it is believed that the law is not so firmly settled as to forbid further argument and inquiry. On the second question, What kind of goods are dutiable as materials for hats, these cases do not clearly establish any rule. In the *Zimmerman* case, and in the *Edelhoff* case, the goods involved were distinctively and essentially materials for hats. The first furnished the basis for the practice of the Treasury Department in classifying goods as materials for hats, and the second does not go beyond the *Zimmerman* case. In the *Langfeld* case the court was permitted to lose sight of the goods involved, but there are expressions in the opinion which indicate that goods are not dutiable as materials for hats unless habitually and customarily used as such. That is in entire accord with the *Zimmerman* case.

It is difficult to see in these cases any warrant for the extravagant claims of the importers. These cases certainly do not say that the description "trimmings, used for making, or ornamenting, hats, bonnets, and hoods," is a specific enumeration, in the sense of the words "not specially enumerated or provided for" in the silk clause, whatever meaning may be given it. It is only by keeping that description within the latter words in the silk clause that the importers can cover their case completely with the written language of the statutes. Nothing less than the written word of Congress can hold their case together.

The *Edelhoff* case was decided on January 6th, 1890. Congress was immediately appealed to, and on February 18th passed an act[1] substituting a new clause for materials for hats in place of the one in the act of 1883. The clause does not contain the words "laces" or "trimmings," does not apply to silk goods at all, and effectually put an end to the controversy and the claims of the importers as respects importations made after its passage.

The Treasury Department was left with an immense amount of litigation[2] upon its hands, all of it based upon importations made between the date of the passage of the act of 1883 and the passage of that of 1890. Secretary Windom treated the *Edelhoff* case as

[1] Exhibit XXV. [2] Exhibit I.

deciding that goods are not to be excluded from the hat-material clause merely because they are made of silk.[1]

Since that decision, the practice of the Treasury Department has been to consider the question of the dutiability of an article as materials for hats as depending entirely upon its chief use, and its effort has been to come to some understanding with the importers, as a basis for settlement and for refunding the claimed excess of duty exacted, upon the question just what articles are in point of fact chiefly used for making or ornamenting hats. Secretary Windom called a Conference of Appraisers to consider this question, and upon their report[2] as a basis began to make refunds. But on December 29th, 1890, the business of preparing the necessary papers and of refunding on the basis of the report of the appraisers was stopped by order of the Secretary for the reason, it seems, that it appeared to be the avowed intention of the claimants to continue litigation as to articles not found to be hat trimmings by the courts and not covered by the rulings of the Department.

In July, 1891, a case[3] was tried in the circuit court for the eastern district of Pennsylvania. It involved goods known as gauzes, crepons, crepe, satins, and velvets. The question whether they were dutiable as materials for hats, Judge Acheson said, depended, *first*, on whether they were "trimmings," and, *second*, upon whether they were chiefly used for making or ornamenting hats, bonnets, and hoods. There was no controversy at the trial upon the question whether the goods were "trimmings" or not, and it is safe to say there never will be one upon that question, under what has come to be called the "chief use doctrine." The jury returned a verdict in favor of the Government, but this verdict was set aside by the learned judge, on the ground that it was, or may have been, influenced by certain newspaper articles which he regarded as tending to excite feeling and prejudice against the plaintiffs.

Under Secretary Foster, on September 22d, 1891,[4] the order of the previous December suspending the business of refunding excess of duties was revoked, and the business again resumed upon a new basis, the question of the chief use of contested articles to be passed upon by the local Appraisers, and no refunding of duties to take place unless the claimants discontinued suit.

Under these instructions, the refunding of duties was carried on, with more or less speed and regularity, down to January 14th, 1893. On that date a circular[5] was sent from the Treasury Department to the collectors of customs authorizing a refund of duties on certain specified articles, thus obviating the necessity of having the Appraisers or anyone else pass upon the question of the use of the articles. In addition to the specified articles, refunds were authorized upon "such other articles as have been or may be found

[1] Exhibit XVIII. [2] Exhibit XIX.

[3] *Meyer et al.* v. *Cadwalader* (49 Fed. Rep., 26 and 32). Eighteen other cases were tried. See Exhibit I, B, II.

[4] Exhibit XX. [5] Exhibit XXI.

by the committee of the Board of General Appraisers to be chiefly used in making or ornamenting hats, bonnets and hoods."

Payments under this circular were at once suspended by President Harrison, and on March 2d, 1893, the circular itself was recalled by the direction of the same authority. [1]

The circular was prepared and sent out without the concurrence of the Attorney-General or President, and involved a radical departure from the policy of the then administration or the present one. A Congressional investigation was afterwards proposed, and if it shall be extended to the relations of the hat material syndicate, to political and departmental action, it is to be hoped that it will be prosecuted.

CHARLES H. ALDRICH,
Solicitor-General.
HENRY SCHOFIELD.

Exhibit XXII.[1]

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EXHIBIT I.

ESTIMATES OF AMOUNT INVOLVED.

A.

Hon. CHARLES H. ALDRICH,
Solicitor-General, Department of Justice,
Washington, D. C.:

SIR: Respectfully referring to our conversation of the 20th instant relative to the above suits, and in obedience to your request, then made, that I send you an accurate estimate of the amount of money refunded by the Treasury Department to importers in the hat-trimming cases under the Langfeldt and Edelhoff decisions; also to inform you of the amount remaining in suit, and the probable amount that would have to be refunded if Department letter of January 14 last was to be enforced. I would state that under Department letter of February 11, 1890, S. S. 9854, I estimated at that time that a careful construction of that decision would take not more than $2,000,000 to settle these suits; subsequently, however, when Department circular of March 11, 1890, S. S. 9915,[1] largely extended the scope of the Supreme Court decisions, I had then to estimate that the amount would be at least $20,000,000, while the importers insisted that $2,000,000 would be sufficient, and in this they were sustained by many Government officials who advocated liberal payments to these honest merchants whom they claim I was oppressing in obstructing their efforts to obtain money from the United States Treasury.

That aforesaid estimates were practically correct was proved by the fact that on the 30th of December, 1890, nine months later, when Secretary Windom suspended the refunds on these cases, $2,500,000 had been paid out to the importers or their agents, while very few suits had been settled, the bulk of the refunds being on entries and invoices upon which no suit had been commenced. An examination showed that of the amounts claimed in the suits the importers received over 65 per cent under S. S. 9854[2] and S. S. 9915.[1]

Under Department letter of September 22, 1891, S. S. 11798,[3] it will be seen from an examination of a schedule made by the Collector at New York, copy enclosed marked A, that up to January 1 last, under this decision that suits amounting to $4,359,555.52 had been settled by the Department upon payment of $1,545,088.68,

[1] Exhibit XVI. [2] Exhibit XVIII. [3] Exhibit XX.

being equal to 35 per cent of the original claim. I also enclose a schedule of all suits still pending at the port of New York, from which it will be seen that more than ($33,092,022.09) thirty-three million ninety-two thousand twenty-two dollars and nine cents is involved, consequently there can not be less than thirty-four millions of dollars involved in suits against the Government in the hat-trimming cases throughout the United States. I have no hesitation in stating that if the Department circular of January 14 last, had been carried out and not suppressed by the President, the importers would have received fully 90 per cent on the dollar of this amount.

From the foregoing it will be seen that if Secretary Windom had not suspended payment under S. S. 9854 and S. S. 9915 in December, 1890, but continued the refunds as then conducted $25,000,000 would have been required to pay the refunds in these cases, being 65 per cent on the dollar of the claims, which was the average percentage paid to settle suits that year.

Under Department letter of September 22, 1891, S. S. 11798,[1] as it was construed by the Board of General Appraisers, and estimating at 35 per cent the same rate as has been already paid, as shown in Schedule A, it would have taken twelve millions of dollars ($12,000,000) at that rate to settle the thirty-four millions of dollars in suit.

Estimating that the decision of January 14th last would have taken 90 cents for the Treasury to settle one dollar of claims, and this it undoubtedly would have taken had it gone into effect. The amount required to settle these claims would be at least thirty millions of dollars ($30,000,000).

I have thought it advisable to suggest to the United States district attorney, Mr. Ingham, that he place two of the hat-trimming cases upon the calendar for the coming April term of the United States circuit court, so that if it should be deemed advisable to try a case opportunity may be given.

I expect to have the honor of visiting your office on Wednesday next, when I shall be glad to consult further with you on these subjects.

Respectfully, yours,

MARCUS HANLON,
Special Agent.

B.

TREASURY DEPARTMENT,
Washington, April 3, 1893.

Hon. RICHARD OLNEY,
Attorney-General.

MY DEAR SIR: In compliance with your request of recent date, I herewith transmit a letter addressed to me by A. K. Tingle, esq., supervising special agent, containing the best estimate that

[1] Exhibit XX.

can be made of the amount which will probably have to be refunded by the Treasury Department under the decisions of the United States Supreme Court in what are known as the hat-trimming cases. In my opinion this estimate is as nearly correct as it is possible to make it under the existing circumstances.

I have the honor to be, yours truly,

J. G. CARLISLE.

I.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 28, 1893.

Hon. J. G. CARLISLE,

Secretary of the Treasury:

SIR: I have carefully read Special Agent Hanlon's letter to the Solicitor-General, relative to the amount involved in the hat-trimming cases, and the amount estimated by him to be refunded to the importers appears to me excessive. It is based upon the amounts claimed in the bills of particulars filed in the suits, which are always placed at the maximum sum possible to recover upon the values named in the invoices, without much regard to accuracy of statement. It would hardly be safe to make an estimate upon the percentage of these values allowed in cases which have been adjusted.

I hand you herewith a memorandum prepared by the chief of the customs division, showing the history of these cases up to March, 1891. Secretary Windom had given an order to stop refunds in December, 1890, pending further investigation of the facts. Prior to that order, Mr. Hanlon estimates that the refunds had reached about $2,500,000, including payments in cases where protest had been filed, but no suit brought. This class of refunds is not reported to the Department, and the amount thereof can hardly be ascertained from the books of the custom-house. The total payments to date through the Department in suit cases is $2,806,324.17. Possibly the refunds all told in these cases heretofore made, including refunds on reliquidation in the custom-houses, will approximate $5,000,000. All estimates of the amount which would be paid, should the orders of the Department heretofore made and suspended be carried out, are necessarily unreliable. Such amount can only be ascertained by actual computation in each case, involving a great amount of clerical labor.

At the time of the suspension of payments by Secretary Windom, it was estimated by one of the most intelligent and reliable officers of the New York custom-house, that the amount required to pay the sums due under the construction then given to the decisions of the Supreme Court, which construction was much broader than has been conceded by later departmental rulings, would reach about $13,000,000. Deduct $1,500,000 since

paid and there would remain according to this estimate $11,500,000. The collector at New York was at that time of the opinion that this estimate should be reduced by one-half. In this opinion I do not concur. If, however, the lowest estimate be taken, the sum involved is so great as to justify the Attorney-General in using every effort to obtain a rehearing by the Supreme Court.

Respectfully, yours,

A. K. TINGLE,
Supervising Special Agent.

II.

Memoranda concerning articles claimed to be entitled to classification as hat "trimmings" under tariff act of March 3, 1883 (par. 448).

Importers, by protests duly lodged with collectors of customs, claim that the following articles are hat materials or trimmings, dutiable at 20 per cent ad valorem, viz:

Silk plush in the piece.
Silk and cotton plush in the piece.
Silk velvets in the piece.
Silk and cotton velvets in the piece.
Astrachan cloths.
Silk ribbons.
Silk and cotton ribbons.
Cotton laces.
Metal goods.
Tricotine.
Cotton velvets.
Glass beads.
Bead ornaments.
Cloak clasps.
Piece satins.
Turquoise.
Countable cottons.
India rubber fabrics.
Silk, cotton, and rubber braids.
Garter webbing.
Silk marceline lining.
Veiling.
Umbrella cloths (silk, etc.).
Silk gauzes.
Cotton embroideries.
Manufactures of worsteds.
Figured velvets (silk, and silk and cotton).
Wool mourning bands (weeds).
Silk velvet ribbons.
Silk and cotton velvet ribbons.
Beaded lace trimmings.
Silk linings.
Silk and cotton linings.
Silk crêpe lisse.
Chenille and beaded trimmings.
Silk and cotton satins.
Cotton galloons.
Cotton cords.
Cotton braids.
Silk ties.
Wool and metal lace.
Silk and cotton cords.
Silk and cotton galloons.
Silk and cotton serges.
Silk laces.
Piece silks.
Linen embroideries.
Artificial flowers.
Feathers.
Cotton tapes.
Brass clasps.
Steel and pearl buttons.
Silk illusion.
Metal fringes.
Silk mufflers.
Silk handkerchiefs.
Necktie silks, and possibly many others.

These claims are now covered by suits against collectors for the recovery of duties exacted on the articles, in excess of 20 per cent ad valorem, and some of these suits have been tried, two of them having been the subject of decisions of the Supreme Court of the United States.

The first suit tried in the Supreme Court was that of *J. F. Hartranft, collector, etc.*, vs. *A. M. Langfelt et al.*, which was taken by the collector (Government) by writ of error from the United States circuit court for the eastern district of Pennsylvania. In the lower court (see report of the United States attorney, dated April 19, 1886), the suit was brought to recover the excess of duty over 20 per cent ad valorem on four different kinds of goods: (1) cotton velvets; (2) silk and cotton velvets; (3) silk and cotton velvet ribbons, and (4) hat plush. Upon the trial, the United States attorney specially reports that the plaintiffs (importers) abandoned their suit as to the cotton velvets, and that upon going to the jury as to the other articles the verdict was for the plaintiffs only as to the "velvets" (2), and the "hat plush" (4), and "for the defendant (collector) as to the velvet ribbons" (3).

The case was then taken to the Supreme Court by the defendant (collector), with a view of having the question as to the silk and cotton velvets in the piece determined (the hat plush being hat trimmings, and so conceded); but either through mismanagement, inadvertence, or other reasons, the record and decision in that court do not relate to velvets in the piece, but to "velvet ribbons made of silk and cotton," which, notwithstanding the report of the United States attorney to the contrary, are held to have been properly found by the court below to the trimmings chiefly used in making and ornamenting hats, etc., and to be dutiable at 20 per cent ad valorem, under par. 448. (See 125 U. S. Reports, p. 128.)

The other suit tried in the United States Supreme Court was that of *William H. Robertson, collector, etc.*, vs. *C. A. Edelhoff, et al.*, in error to the circuit court of the southern district of New York.

The suit was brought by the importers (defendants in error) to recover duties in excess of 20 per cent ad valorem on (1) braids made of silk and cotton, called "flat hat bands;" (2) silk and cotton cords, and (3) cotton trimmings. On the trial in the lower court (see report of United States attorney at New York, dated May 1, 1886, page 7) the jury rendered a verdict by direction of the court for the defendant (plaintiff in error), as to the silk and cotton (satin) cords (2), and cotton trimmings (3), on the ground that they were not chiefly used as hat trimmings; and for the plaintiffs (defendants in error) for the "flat hat bands." In the Supreme Court, to which the case was taken by the defendant in the court below, the decision (No. 170, October term, January 6, 1890) stated that "the articles in dispute were ribbons composed of silk and cotton, in which silk was the component material of chief value;" that as the undisputed evidence showed they were

used exclusively as trimmings for ornamenting hats and bonnets, and had commercial value only for that purpose, the verdict in the court below as to the ribbons (hat ribbons or hat bands) was correct, and that such merchandise was properly dutiable at 20 per cent ad valorem, under paragraph 448.

Another case is still pending in the United States Supreme Court upon the question as to the classification of "fancy silk ribbons." It is that of *Cadwalader, collector, etc.*, v. *Wanamaker et al.*, in error to the circuit court of the eastern district of Pennsylvania. The verdict in the court below was, owing to the charge of the court, in favor of the defendants in error, and the case was taken by the collector (Government) to the Supreme Court. The ribbons in this case were of various widths, colors, textures, and style, and the evidence, which was conflicting, was to the effect that they were trimmings used for making and ornamenting hats, etc., and dutiable at 20 per cent ad valorem. (See report United States attorney at Philadelphia, dated October 30, 1888.)

Another suit pending in the Supreme Court is that of *Hagedon* v. *Seeberger, collector* (No. 811, docket, October Term, 1890), on hat trimmings. The judgment in the court below (United States circuit court, northern district of Illinois), which was in favor of the importer as to certain items was subsequently acquiesced in by the Department on account of the smallness of the sum involved, but it was also against the importer on the main issue, which was as to the classification of certain satin finished and embroidered ribbons, velvets in the piece, shot silk in the piece, velvets ornamented with glass beads, wide silk sash ribbons and uncut silk velvets. As to these specified articles the claim of the importer that they were dutiable as hat trimmings was rejected.

The same result, or one even more favorable to the Government, followed on the trials in the same court (United States circuit court for the northern district of Illinois) of the cases of *Fisk et al.* vs. *Seeberger*, and *Walker* vs. *Seeberger*, the judgments therein being subsequently for the Government, the plaintiffs in each case obtaining verdicts only for small sums on articles like flower fabrics which might be mainly used as hat trimmings.

The suit (N. S. 10038) of *Philo C. Mills et al.* vs. *Robertson, collector*, was tried in the United States circuit court for the southern district of New York, in April, 1888. (See report United States Attorney, New York, of May 7, 1888.) It was brought to recover duties in excess of 20 per cent ad valorem on (1) cotton laces; (2) silk veilings; (3) Chantilly silk lace, black; (4) "tabliers" (aprons) made of silk and glass beads; and (5) laces made of wool and metal thread; the plaintiffs claiming that all of these articles are "bonnet and hat laces and trimmings." The verdict was in favor of the plaintiffs only as to the last-named articles (laces of wool and metal thread), the defendant proving that the other articles were not, if at all, chiefly used as hat trimmings.

Since the decision of the Supreme Court was rendered in the Edelhoff case, eighteen suits were tried (under stipulation) in the United States circuit court for the eastern district of Pennsyl-

vania. These suits embraced silk and silk-and-cotton ribbons; florences (silks) in the gray; florences colored and printed; marcelines (silks) in the gray and printed; batavias; molines; gauzes; veilings; piece satins; velvets; and plushes; and under stipulations the plaintiffs went to trial on the ribbons alone eight lines and over in width, abandoning their contention as to all ribbons under eight lines in width, and as to all of the other articles above specified. They proved that the ribbons eight lines and over were chiefly used as hat trimmings, and obtained judgments for the excessive duties over 20 per cent exacted on these articles, which judgments were subsequently paid.

From the foregoing it seems that the claim of the importers has been determined in their favor by the United States Supreme Court as to two items, viz:

1. Silk and cotton velvet ribbons.
2. Silk and cotton ribbons and hat ribbons or hat bands, and that their claim has been affirmed by the United States circuit courts as to the following items, viz:
3. Silk velvets in the piece.
4. Hat plush.
5. Fancy ribbons.
6. Wool and metal thread lace.
7. Silk and cotton ribbons or hat bands from 8 to 12 lines in width.

Their claims have been rejected in the circuit courts as to the following items, the verdicts being in favor of the Government:

8. Silk and cotton velvet ribbons.
9. Satin finished and embroidered ribbons.
10. Silk velvets in the piece.
11. Velvets ornamented with glass beads.
12. Wide silk sash ribbons.
13. Uncut silk velvets.
14. Cotton laces.
15. Silk veilings.
16. Chantilly silk lace, black.
17. Tabliers (aprons), of silk and beads.
18. Florences, marcelines, batavias, and molines.
19. Gauzes, veilings, tissues.
20. Piece silks and satins, velvets and plushes.

Under the decisions of the United States Supreme Court which are the subjects of Department's instructions of the 25th of April, 1888 (S. 8803), and February 11, 1890 (S. 9854), the following articles were reported by a conference of local appraisers held at New York, February and March, 1890, to be chiefly used as hat trimmings, to be otherwise not specially enumerated, and to be entitled to classification under par. 448.

Class 1. Ribbons, commercially known as trimmings. All ribbons of silk and silk and cotton, silk chief value, from 20 to 60 lines inclusive, except gauze ribbons. Gauze ribbons of every description. Satin black velvet ribbon hat braids.

Class 2. Laces specially enumerated in par. 448. Fancy colored

laces (excepting all black), not exceeding 65 lines in width, silk chief value.

Class 3. Piece goods known as millinery materials but not commercially known as trimmings (in the condition in which imported), but conceded to be intended chiefly for making and ornamenting hats, etc., comprising: Plain velvets not exceeding 18½ inches in width. Cotton-back satins, not exceeding 24 inches in width or valued at not exceeding 4 francs per meter, subject to trade discount. Millinery gauzes, except veilings.

Under these decisions and instructions, refunds of duties in excess of 20 per cent ad valorem were made at New York as reported by the collector under date of January 27, 1891, amounting to $1,595,861.55, this sum representing an average of 31.9 per cent of the amount claimed by the importers.

That claims in suit and otherwise are still pending at New York amounting as estimated to $48,453,031.21, but that the extreme amount which may be refunded will be $15,890,414.31, and that this sum will be still further reduced by reason of duplicate claims, etc., to $12,709,016.13. The collector, however, stated in his letter dated January 27, 1891, that this "total estimate of $12,709,016.13 may fairly be reduced *at least one-half*," exclusive of interest, etc., and this estimate accords with the views of the United States appraiser at New York, as contained in his letter dated January 6, 1891, and that of Assistant Appraiser Corbett, dated January 3, 1891.

The reports of Special Agent Hanlon, who has been engaged in investigating these matters, are, so far as received, merely preliminary, and do not afford sufficient data from which to make any deduction. It is understood, however, that Mr. Hanlon is of opinion that unless further trials on some of the issues are had the Government will be called upon to refund at least $20,000,000 in these cases.

There are no reports giving particulars of claims at any ports other than New York.

MARCH 23, 1891.

C.

UNITED STATES OF AMERICA,
TREASURY DEPARTMENT,
March 27, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed letter is a true copy of the original on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.]

O. L. SPAULDING,
Acting Secretary of the Treasury.

PORT OF NEW YORK,
APPRAISER'S OFFICE,
402 Washington street, December 23, 1890.

Hon. O. L. SPAULDING,
Assistant Secretary, Washington, D. C.:

SIR: In reply to your request of December 20 (A. K. T.), I would state that invoices which have been reclassified in accordance with the rulings of the Department, and the money refunded in accordance with such reclassification, are being returned to this office accompanied by protests requesting us to report on articles not reclassified; and this with a view to bringing suit on such articles as were not reclassified.

At a moderate calculation the refunds will reach nearly if not more than $10,000,000, taking the articles already allowed at this port.

It is my opinion, and the principal attorney in this case, Mr. H. E. Tremain, has expressed a willingness to do so, that, before the certificate of refund is given, the plaintiffs should withdraw all suits on the articles not found to be hat trimmings, in accordance with the rulings of the courts and of the Department; and it was my purpose to withhold all reclassifications until some such stipulation was made by the plaintiffs.

Otherwise the Government refunds without a suit on many articles, and the plaintiffs quietly pocket the money and again proceed to work the mine, and the claims will never end, and the extra labor and expense entailed on the Government will never cease. I understand that in the suit in Philadelphia the plaintiffs claim that the compromise only resulted in the Government giving back the duty on ribbons from 8″ to 20″ lines, while the plaintiffs give up nothing, but coolly proceed to bring suits on the other articles which the appraiser and the district attorney abandoned.

The Secretary, in my opinion, has the power to stop this. I am informed it has always been customary heretofore for the collector to refuse to forward the liquidation on such invoices unless all claims of a similar nature were abandoned.

If this can be done some millions may be saved from the wreck.

I am holding back all reclassifications in the hat-trimming cases until I may receive the views of the honorable Secretary in regard to the matter.

Very respectfully,

M. W. COOPER,
United States Appraiser.

EXHIBIT II.

(1761.)

COTTON BRAIDS, USED FOR TRIMMING HATS—HOW CLASSIFIED.

Cotton braids which, although imported for use in trimming hats, are capable of being used for other purposes are not dutiable under the provision for "braids * * * trimmings * * * used for making or ornamenting hats," etc., contained in the eighth section of the act of July 14, 1862, but should be classified under the special provision for "cotton braids," in the sixth section of the act of June 30, 1864, at a duty of 35 per cent ad valorem less 10 per cent.—(*Letter to Collector at New York, January 10, 1874.*

EXHIBIT III.

ARTHUR v. ZIMMERMAN, 96 U. S. 128.

EXHIBIT IV.

(3559.)

COTTON BRAIDS FOR TRIMMING HATS—DUTY ON.

TREASURY DEPARTMENT,
April 30, 1878.

SIR: In Department's decision of January 10, 1874 (No. 1761),[1] addressed to you, it was held that cotton braids, used in trimming hats, were subject to duty under the act of June 30, 1864, at the rate of 35 per cent ad valorem, with 10 per cent reduction, and not under the prior act of 1862, at 30 per cent ad valorem (less 10 per cent), which specially provided for braids used for making or ornamenting hats, bonnets, and hoods composed of straw, chip, grass, palm leaf, willow, or any other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for.

Numerous appeals were taken from this decision, and the case of *Zimmerman* vs. *Arthur*, which involved the question, was tried in the United States circuit court for the southern district of New York, in May, 1876. The judgment in that case was adverse to the position taken by the Government. Directions were given to take the case to the Supreme Court for review, and the decision of that court in the case has now been rendered, a copy of which you will find inclosed. It will be seen that the Supreme Court has affirmed the decision of the court below.

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[1] Exhibit II.

Considering the fact that Schedule A of title 33 provides for cotton braids at 35 per cent ad valorem, and that Schedule M imposes a duty of 30 per cent ad valorem on braid used for making and trimming hats, bonnets, and hoods composed of straw, chip, grass, palm leaf, willow, or any other vegetable substance, etc., it becomes necessary for this Department to reverse said decision, No. 1761, and cause its practice to conform to the decision of the Supreme Court.

You are therefore authorized to apply the decision of the Supreme Court to the articles of merchandise before mentioned; and you are also directed to forward certified statements for a refund of the excess of duties exacted on the class of goods named, in cases where protest and appeal and institution of suit have been duly taken. Separate certified statements will be made for the amount of duty refunded, and such statement will refer to the number and date of the appeal forwarded to this Department. Additional certified statements will be forwarded for the interest and costs which have accrued, upon the dismissal of the suits instituted. Payment of the claims for interest and costs will have to await a special appropriation. You are also authorized to permit withdrawal of goods, of the character named, now in bond, under the decision of the Supreme Court.

Before transmitting any certified statements in this class of cases, such statements will be referred to the appraiser for his indorsement thereon, that the goods are of the character named in the decision of the United States Supreme Court, a copy of which you will please furnish him.

Very respectfully,

JOHN SHERMAN,
Secretary.

COLLECTOR OF CUSTOMS,
New York.

EXHIBIT V.

(5542.)

MIXED GOODS—SILK AND COTTON HATBANDS.

TREASURY DEPARTMENT,
January 22, 1883.

SIR: In accordance with the request of the appraiser at your port, contained in a letter addressed by him to the Secretary, under date of the 17th instant, I transmit herewith a copy of a ruling of the Department, dated the 21st of October last, concerning the classification of silk and cotton hatbands.

In connection with such ruling, the Department would state, for the information of the appraiser, that where silk is chief value and cotton under 25 per cent in value, the act of February 8, 1875,

applies to such merchandise and makes it liable to duty at the rate of 60 per cent ad valorem, without regard to the question whether it is essentially a material for making and trimming hats and bonnets.

If, however, cotton is over 25 per cent in value, such act does not apply, and the merchandise is then remanded to section 2504, Revised Statutes, for classification either under Schedule H, as a manufacture of which silk is the component material of chief value, at a duty of 50 per cent ad valorem, or under Schedule M, as materials or trimmings for hats, etc., at a duty of 30 per cent ad valorem.

Of course, the goods can only be classified under the last category when the appraiser is satisfied that they are, in fact, hat trimmings as distinguished from "ribbons," and can be used for that purpose only.

Very respectfully,

H. F. FRENCH,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
Philadelphia, Pa.

[Letter above referred to.]

TREASURY DEPARTMENT,
October 21, 1882.

SIR: This Department is in receipt of your letter, dated the 22d of July last, submitting the appeals mentioned below from your decision assessing duty at the rate of 35 per cent, 50 per cent, and 60 per cent ad valorem, respectively, on certain cottons and silk and cotton goods, imported by them in the vessels named and returned by the appraiser on the invoices as cotton hatbands, and silk and cotton hat bands, over and under 25 per cent.

The appraiser's report shows that a considerable portion of the merchandise may be used for trimming hats and for hatbands, being composed of cotton and cotton mixed with silk in "every conceivable proportion of relative value." Another portion of the goods consisted of ribbons or trimmings, for mixed material for hat trimmings, ornaments, etc., and another part of silk and cotton nets or laces or mixed materials for making or ornamenting hats. In the case of *Zimmerman* v. *Arthur* the Supreme Court decided that certain cotton goods, commercially known as hatbraids, and shown upon the trial of the case in the court below to be used exclusively for making and trimming hats and bonnets, under the provisions of the Revised Statutes, were dutiable under the specific provision for hat braids.

The appellants claim that the goods are used for making or ornamenting hats, a part being composed of vegetable materials and a part of cotton and silk. Schedule M (Tariff Indexed, 380) imposes duties at the rate of 30 per cent on "hats, etc., materials for

braids, plaits, flats, laces, trimmings, tissues, willow sheets and squares, used for making or ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm leaf, willow, or any other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for."

If, on reëxamination by the appraiser, his report shall show, in view of the decisions of the court referred to, and of this Department, dated April 30, 1878 (Decision 3559),[1] that any of the articles are dutiable under the provision quoted, having due regard to the provisions of the act of February 8, 1875, measures will be taken according to the usual course of procedure for a refund of the duties levied in excess.

As regards the residue of the merchandise, consisting of articles which may be used for hats and also for other purposes, or which, as shown by their general appearance, are not used as mentioned in the clause quoted, your decision is affirmed as being in accordance with the provisions of the tariff and the act of February 8, 1875.

* * * * * * * *

Very respectfully,

H. F. FRENCH,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
New York.

EXHIBIT VI.

A.

TREASURY DEPARTMENT,
November 19, 1883.

Hon. BENJAMIN HARRIS BREWSTER,
United States Attorney-General:

SIR: I have the honor to invite your attention to certain provisions in the tariff act of March 3, 1883, and to request your opinion as to the proper construction of the law relating thereto, for the information and guidance of this Department.

Paragraph 400 of the accompanying pamplet edition of the tariff, as contained in Schedule N, provides as follows:

"Bonnets, hats, and hoods for men, women, and children, composed of chip grass, palm-leaf, willow, or straw, or any other vegetable substance, hair, whalebone, or other material, not specially enumerated or provided for in this act, thirty per centum ad valorem."

It will be observed that after enumerating bonnets, hats, and hoods composed of certain substances therein named, it is added "or other material not specially enumerated or provided for in this act." Does that mean bonnets, hats, and hoods not otherwise provided for in that act which may be composed of any material,

[1] Exhibit IV.

or does it mean bonnets, hats, and hoods composed of *material* which is not enumerated as such? Take for illustration silk hats. Schedule L, 383 I, imposes a duty of 50 per cent ad valorem on all goods, wares, and merchandise not specially enumerated or provided for in that act made of silk, or of which silk is a component of chief value. If the words in paragraph 400, before referred to, viz, "or other material not specially enumerated or provided for," and so on, refer to *materials* and not to the *articles*, then it would seem that hats of silk are excluded because of the provision in Schedule L, before cited. If, on the contrary, the words "not specially enumerated or provided for in this act" refer to bonnets, hats, and hoods, silk hats would be included therein, because there is no provision for silk hats by name in the tariff act.

The view taken in the accompanying decision of this Department, dated September 25 last, on an appeal concerning the duty on silk bonnets of which silk was the component of chief value, was that they are not included in paragraph 400 because of the fact that the material, viz, silk, was provided for under Schedule L. Doubts have since arisen as to whether this decision was a correct one, and inasmuch as the question is likely to lead to a large amount of litigation, if it should be decided against the importers, the Department has thought it worth while to enter upon a review of the whole question. I may add that somewhat the same question arises under paragraph 448 of Schedule N of the same act, relating to materials for hats. There is, I think, strong ground for adopting the view that the phrase, "not specially enumerated or provided for," in that paragraph refers to materials of which the articles are composed, so that braids, plaits, flats, laces, trimmings, etc., which are made of silk or of wool, which are substances specially enumerated or provided for, do not come within that provision. I submit letters from the collector and appraiser at New York, dated the 12th and 27th ultimo, which give the views of those officers in the premises. Please return the inclosures.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

B.

(Glendale Company, Easthampton, Mass. Manufacturers of silk elastic webbings.)

PHILADELPHIA, *February 9, 1884.*

Hon. B. H. BREWSTER,

United States Attorney-General, Washington:

MY DEAR SIR: We understand the Treasury Department has called upon you asking a decision as to whether "silk elastic webbings" should pay a 50 per cent duty under the silk schedule of the tariff or under the general webbing clause at 35. We beg to say that the old rate was 60 and it was considered by the Commis-

sion and the various committees of Congress that the general silk schedule covered it fully at 50; but the Treasury Department has ruled otherwise pending your decision. There is no doubt about the *intention* of Congress to levy a duty of 50 per cent, thus reducing it 10 for the present.

We will take the liberty to send you samples from our bills of the goods in question early the coming week, showing the *materials* contained in the goods to be almost *entirely* of silk, the rubber being introduced simply to enable the *stretch* so that if the *materials* contained in them has anything to do with determining the rate then 50 per cent is clearly correct.

The effect of the Treasury decision rating these goods at 35 per cent has had the effect to shut down our manufactory in this department altogether and price of goods in this grade has fallen 20 to 25 per cent, leaving us out altogether.

Respectfully yours,

JOS. W. GREEN,
Treasurer.

[Endorsed.]

WASHINGTON, *February 11, 1884.*

Respectfully referred by the Attorney-General to A. J. Bentley, esq., law clerk and examiner of titles, for his information.

C.

HATS AND HAT-TRIMMINGS MADE WHOLLY OR IN PART OF SILK.

TREASURY DEPARTMENT,
February 27, 1884.

The following correspondence, relating to duties on hats and hat-trimmings made wholly or in part of silk, under the act of March 3, 1883, is published for the information and guidance of customs officers.

H. F. FRENCH,
Assistant Secretary.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February, 25, 1884.

SIR: I am in receipt of your letter of the 20th instant, in regard to the liquidation of entries of hat trimmings made wholly or in part of silk, and the rate of duty due thereon.

The question arises whether hat trimmings of the character specified are dutiable under Schedule N, paragraph 448, or at 50 per cent ad valorem, under Schedule L, paragraph 383. The question was referred to the Attorney-General, under date of the 19th

of November last, and a copy of his opinion, dated the 15th instant, is appended hereto.

You will see that he holds that the articles mentioned are dutiable at 20 per cent, and also that hats, bonnets, and hoods, for men, women, and children, not specially enumerated as such in the tariff, are dutiable at 30 per cent, under Schedule N, paragraph 400. This would embrace bonnets, hats, and hoods, for men, women, and children, composed of silk, they not being especially named in Schedule L.

At present the Department confines the application of the opinion to the tariff of March 3, 1883.

Unliquidated entries will be disposed of accordingly, and you will cause your action in future to conform thereto.

Further consideration will be given to the question as to how far the opinion controls under the tariff act in force prior to March 3, 1883. The limitations under which this decision will be enforced are set forth in Decision 5542.[1]

Very respectfully,

CHAS. J. FOLGER,
Secretary.

COLLECTOR OF CUSTOMS,
New York.

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The following is the opinion referred to:

DEPARTMENT OF JUSTICE,
Washington, D. C., February 15, 1884.

SIR: By your letter of the 19th of November last my attention is called to certain provisions in the tariff act of March 3, 1883, chapter 131, and an opinion is requested from me as to the proper construction thereof. I have now the honor to submit the following in compliance with your request:

In Schedule N of that act it is provided—

"Bonnets, hats, and hoods, for men, women, and children, composed of chip, grass, palm-leaf, willow, or straw, or any other vegetable substance, hair, whalebone or other material not specially enumerated or provided for in this act, thirty per centum ad valorem."

The question arising upon this provision I understand to be whether the words "not specially enumerated or provided for in this act" apply to the *articles* designated (*i. e.*, bonnets, hats, and hoods, for men, women, and children) or to the *material* of which they are composed.

Upon consideration, I am of the opinion that the words referred to were meant to apply to articles of the description mentioned, and not to the material out of which such articles are made. The aim of the provision is to classify, for revenue purposes, certain *articles of manufacture*, and to subject *them* to the particular duty thereby imposed, and to signify that it is intended to be a *general*

[1] Exhibit V.

one, covering all such articles, is the object of the words in question. It is meant to comprehend bonnets, hats, etc., of whatever material composed, which are not elsewhere in the act "specially enumerated or provided for." Thus, while hats of wool, being specially provided in Schedule K, are not within its scope, it must be deemed to embrace hats of silk, these not being elsewhere in the act specially enumerated or provided for.

A similar question is also understood by me to arise upon the following provision in Schedule N of the same act:

"Hats, and so forth, materials for: Braids, plaits, flats, laces, trimmings, willow sheets, and squares, used for making or ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm-leaf, willow, hair, whalebone, or any other substance or material, not specially enumerated or provided for in this act, 20 per centum ad valorem."

The words "not specially enumerated or provided for in this act," as employed in this provision, apply, in my opinion, to the *articles* (braids, plaits, laces, trimmings, tissues, etc.) used for making or ornamenting hats, bonnets, etc., and not to the material of which those articles are composed. This view is founded upon the same considerations upon which the construction given by me to the first-mentioned provision rests.

I am, sir, very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

HON. CHAS. J. FOLGER,
Secretary of the Treasury.

EXHIBIT VII.

(6226.)

SILK HATS AND HAT TRIMMINGS.

TREASURY DEPARTMENT,
March 7, 1884.

SIR: I have considered the matters stated in the letter of the appraiser at your port, dated the 3d instant, copy inclosed, in regard to the opinion of the Attorney-General, embodied in a circular of this Department of the 27th ultimo, relating to the duties on hats and hat trimmings, made wholly or in part of silk, under the act of March 3, 1883.

I am satisfied that the opinion contains a proper construction of the law, and hence can not withdraw my acquiescence therein.

The allusion in said circular to decision 5542[1] was intended to accomplish this result, that no goods should be classified under under paragraph 448 of Schedule N unless it appeared that they

[1] Exhibit V.

were by their style and character evidently fitted only for the purposes named, whether they were ribbons or other classes of fabrics.

Action will be taken accordingly.

* * * * * * *

Very respectfully,

CHAS. J. FOLGER,
Secretary.

COLLECTOR OF CUSTOMS,
Philadelphia, Pa.

EXHIBIT VIII.

(6900.)

HAT TRIMMINGS - CLASSIFICATION OF.

TREASURY DEPARTMENT,
May 4, 1885.

The following decisions of the Department concerning the classification for duty of hat trimmings are hereby published for the information and guidance of the proper officers of the customs.

C. S. FAIRCHILD,
Assistant Secretary.

TO COLLECTORS AND OTHER OFFICERS OF THE CUSTOMS.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 30, 1885.

SIR: Referring to decision 6823[1] of March 27, 1885, in regard to the proper limitation to be placed on the class of articles claimed to be hat trimmings under paragraph 448 of the tariff act of March 3, 1883, I have to state that decision 6226[1] provided that no goods should be classed under paragraph 448 as hat trimmings unless it appeared that they were, by their style and character, evidently fitted *only* for the purpose named, whether they were ribbons or other classes of fabrics.

The word "only," as thus used, was found to be not uniformly construed or applied at the various ports; hence, in a letter to the collector of customs at Philadelphia of February 28, 1885, a copy of which is attached hereto, and in a further decision of March 27, 1885, published as No. 6823, an attempt was made to define further the use of the word "only" in that connection.

To prevent any misunderstanding of decision 6823,[1] it is now deemed proper to state that its effect is only to declare that goods which are, by their style and character, fitted for use as hat trimmings, and which are commercially known as hatbands or hat

[1] S. T. D. N. 6823. Exhibit VII.

trimmings, and which are generally used for trimming hats, are not to be removed from the classification of hat trimmings, because they may be, and sometimes are, used for other purposes than the trimming of hats.

The contrary of this proposition is that goods which, by their style and character, are not fitted for use as hat trimmings, and which are not commercially known as hatbands or hat trimmings, and which are not generally used for trimming hats, are not to be classed as hat trimmings, under paragraph 448, but will be classed under Schedule L, where silk is the component material of chief value.

Decision 6823 will be enforced according to the view herein taken.

Very respectfully,

C. S. FAIRCHILD,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
New York.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 28, 1885.

SIR: The Department has had under consideration the question of the proper classification of hatbands, so called, claimed to be dutiable at 20 per cent ad valorum, under paragraph 448, as articles for the manufacture of hats.

The samples of the goods submitted are narrow silk ribbons from one-half to an inch wide, and, it is understood, are commercially known as hatbands.

Decision No. 6326,[1] of March 7, 1884, laid down the rule that to be entitled to classification at 20 per cent ad valorum, as hat trimmings, the goods must, by their style and character, be evidently fitted only for the purpose named, whether they are ribbons or other classes of fabrics.

In a letter of March 24, 1884, addressed by Secretary Folger to the collector of customs at Philadelphia, it is said: "The appraiser reports that the goods are commercially known as hatband ribbons, and are generally used for trimming hats;" and it was held that such merchandise imported since the act of March 3, 1883, went into operation is dutiable at 20 per cent, under 448, T. I., new, as construed by Department's decision 6197, which contains the opinion of the Attorney-General.

It is evident that the Department did not intend that the word *only*, in decision 6226, should be literally construed.

In view of the difference of construction of the phrase "fitted only for the purpose named" at your port and at New York, upon reconsideration of the subject, the Department decides that goods commercially known as hat trimmings and generally used for

[1] Exhibit VII.

trimming hats, although possibly used occasionally for other purposes, are entitled to admission as hat trimmings, under 448, T. I., New, at 20 per cent ad valorem.

Very respectfully,

H. McCULLOCH,
Secretary.

COLLECTOR OF CUSTOMS,
Philadelphia, Pa.

EXHIBIT IX.

(7430.)

HAT TRIMMINGS. COTTON LACES. WOOLEN GOODS, AND SATIN AND VELVET RIBBONS.

TREASURY DEPARTMENT,
March 25, 1886.

SIR: The Department is in receipt of your letter of the 6th ultimo, in regard to the classification of certain articles used in making and ornamenting hats, bonnets, and hoods.

The articles in question, it appears, consist of cotton "cape net," velvet and satin ribbons, and woolen goods embroidered with silk and metal, which are classified at your port, under the provision in paragraph 448, act of March 3, 1883, as "hat materials," dutiable at the rate of 20 per cent ad valorem.

Upon investigation, the cape net is found to be a cotton lace, which is finished stiff and used exclusively in the manufacture of hat crowns or foundations.

Cotton laces, specially provided for in paragraph 325 of said act, are excluded from classification as hat materials.

The woolen goods embroidered, it appears, when cut into squares are used exclusively for crowns, and when in that form are entitled to entry at the rate of 20 per cent ad valorem, as "hat-trimmings;" when imported in the piece, they are used as dress-trimmings and for other purposes, and are not entitled to entry as "hat-trimmings."

The velvet and satin ribbons, although used as "hat-trimmings," are used for various other purposes, and are not of such a character as to show that they are principally used for any specific purpose, and the Department is of opinion that ribbons which are adapted to all the ordinary uses of that class of goods can not properly be classified as hat-trimmings.

You will please cause the practice at your port to conform to these views.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

COLLECTOR OF CUSTOMS,
Boston, Mass.

EXHIBIT X.

REPORT OF CONFERENCE OF APPRAISERS.

(December 21, 1886.)

The SECRETARY OF THE TREASURY,
Washington, D. C.

SIR: In compliance with the instructions given in Department letter (J. G. M.) of the 20th ultimo, the undersigned assembled at the office of the United States appraiser at the port of New York, on the 2d instant, for the purpose of conferring upon the differences of opinion which exist in the classification of hat, bonnet, and hood materials, as specified under the provisions of law expressed in paragraph 448 (T. I., New), of the act of March 3, 1883.

We have prepared in our collective capacity a series of seven books of samples, each book representing a specific classification of material as follows:

Book 1 contains such materials as are, by their style and character, fitted for use as hat bands or trimmings, and are commercially known as such and generally used for the trimming of hats.

We unanimously recommend that they be classified under paragraph 448.

Book 2 contains the class of goods that embrace all those which by their style and character are suitable for hat trimmings, are generally, that is to say, extensively, used as hat trimmings, but are not commercially known as such, but as ribbons.

At the rate of duty upon the goods covered by this book the conference is unable to agree. New York, Boston, and Chicago stood for classification, under paragraph 383 (T. I., new), according to material, while Philadelphia and Baltimore held that paragraph 448 should govern the classification.

Book 3 contains the class of goods that embrace such material which by their style and character may be used for the trimming of hats, but are not generally used for that purpose and are not commercially known as hat trimmings.

It is the unanimous opinion of the conference that the rate of duty be 50 per cent, under 383.

Book 4 contains velvet ribbons, etc., which have a general use like those contained in book No. 2, but are not as extensively used for the trimming of hats, and are not commercially known as such, but as ribbons.

In the opinion of all but the appraiser of Philadelphia, the rate of 50 per cent ad valorem, as specified under T. I., new, paragraph 383, should prevail.

Book No. 5 contains samples of piece goods that by their style and character are fitted for use as hat materials, are not commercially known as hat trimmings, but are generally, that is to say, extensively used for the making and trimming of hats.

New York, Boston, and Chicago voted to classify as to rate

under paragraph 383 (T. I., new). Philadelphia and Baltimore held for classification under paragraph 448 (T. I., new).

Book No. 6 contains materials which are the reverse of book No. 5, but somewhat assimilates. The book was considered necessary to show the dividing line to the inexperienced. Classification according to material unanimous.

Book No. 7 contains piece goods that by their style and character are fitted for use as hat materials, are commercially known as gauzes, and are almost extensively used as hat materials or hat trimmings. New York, Boston, and Chicago voted to classify for rate under paragraph 383 (T. I., new). Philadelphia and Baltimore for 20 per cent, under paragraph 448.

In submitting these, our conclusions, we desire to call your attention to the necessity of an early decision as to rate of duty deemed proper by you upon the materials selected and placed in the several books of samples. Spring importations are about to arrive and, under the present ruling of the Department, the appraising force at the several ports which we represent appear to have conflicting rulings upon the classification of such materials as are represented by the above-named books.

The amount of time and labor expended in the above service has exceeded somewhat our expectations, but our best endeavors have been given to the work, and we hope that our determinations will serve the Government a good purpose.

The seven books of samples are transmitted under another cover. We would respectfully suggest that, after their examination at the Department, they be returned to the appraiser at New York, with instructions to that officer to prepare duplicates to be forwarded to such of the principal ports as you may direct.

Very respectfully,

LEWIS MCMULLEN,
Appraiser at New York.
A. B. STEARNS,
Appraiser at Boston.
F. G. HOYNE,
Appraiser at Chicago.
J. B. BAKER,
Appraiser at Philadelphia.
THAD. S. SHARRETTS,
Appraiser at Baltimore.

EXHIBIT XI.

(HARTRANFT v. LANGFELD, 125 U. S. R., 128.)

EXHIBIT XII.

(8803.)

HAT TRIMMINGS.

(*Langfeld* v. *Hartranft.*)

TREASURY DEPARTMENT,
April 25, 1888.

SIR: The Department is in receipt of a copy of the decision of the United States Supreme Court in the case No. 750 (October term, 1887), of *John F. Hartranft, collector, plaintiff in error*, v. *Abram M. Langfeldt et al.*, in which judgment of the circuit court for the eastern district of Pennsylvania is affirmed.

On the trial of the case in the circuit court the importers had judgment as to the velvets in controversy upon the ground that they were commercially known as trimmings, and were chiefly used for that purpose in making or ornamenting hats, bonnets, and hoods, which judgment was affirmed upon appeal to the Supreme Court. The effect of this decision, as it is understood by the Department, is to hold that all trimmings which are chiefly adapted for use in making or ornamenting hats, bonnets, and hoods, are dutiable at the rate of 20 per cent ad valorem.

The question, therefore, as to their proper classification becomes one of fact, to be determined in the first instance by the appraiser and collector, and in the determination of that question two propositions should be affirmatively established to entitle the goods to classifications at the lower rate of duty, viz:

First. That the goods are commercially known as braids, plaits, flats, laces, trimmings, etc., and were so commercially known and designated at the time of the passage of the tariff act of 1883.

Secondly. That they are chiefly used in making or ornamenting hats, bonnets, and hoods.

Department's decision of April 30, 1885 (Synopsis 6900),[1] is modified accordingly, and you are authorized to apply this decision to all similar cases in which the requirements of section 2931, Revised Statutes, have been fully complied with, and to take measures for refunding the excess of duties heretofore exacted, and also to apply it to future cases arising at your port, with the understanding, however, that no entries shall be reliquidated without special reports from the United States appraiser certifying that the goods covered thereby are commercially known as trimmings, and are chiefly used for ornamenting hats, bonnets, etc.

Respectfully, yours,

I. H. MAYNARD,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
Philadelphia, Pa.

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[1] Exhibit VIII.

EXHIBIT XIII.

REPORT OF CONFERENCE OF APPRAISERS.

[July, 1888.]

(Hat materials T. I., new, 448.)

In the investigation and inquiry into the complex subject of "trimmings" used for making and ornamenting hats, the conference has consumed much time, and has as fully as possible discussed its bearing on all sides.

In accordance with the instructions from the Department, it has given a fair and attentive hearing to Henry E. Tremain, of the firm of Tremain & Tyler, as also to Briton Richardson, secretary of the Silk Association of America, and C. Lambert, of the firm of Dexter, Lambert & Co., silk manufactures.

In order to arrive at some uniform classification for the guidance of the different ports, a standard of samples was deemed most practicable. Samples of hat materials were presented by New York, Philadelphia, and Baltimore, but upon investigation it was found that the samples heretofore prepared in books from Nos. 1 to 7, inclusive, were quite as full and representative as samples of hat materials, etc., and it was deemed advisable to adopt them, and to take a vote as to the determination of the present conference in regard to their proper classification under Department's recent decision, Synopsis 8803. As the books are now in possession of the Department, no other samples need be transmitted.

While upon some of the books the vote is unanimous, on others there is a difference of opinion. The reasons for this difference are given in an appendix accompanying this report.

The vote on the books stood as follows:

Book No. 1—20 per cent.

Book No. 2.—New York, 50 per cent; St. Louis, 50 per cent; Cleveland, 50 per cent; New Orleans, 50 per cent; Philadelphia, 20 per cent; Baltimore, 20 per cent; Boston, 20 per cent. "In my opinion," Mr. Joslin said, "they are commercially know as trimmings only in the very broadest sense in which trimmings can be used."

Book No. 3.—New York, 50 per cent; Philadelphia, 50 per cent; St. Louis, 50 per cent; Cleveland, 50 per cent; New Orleans, 50 per cent; Boston, 20 per cent. On the same ground as above.

Book No. 4.—New York, 50 per cent; New Orleans, 50 per cent; St. Louis, 50 per cent; Cleveland, 50 per cent; Philadelphia, 20 per cent; Baltimore, 20 per cent; Boston, 20 per cent.

Book No. 5.—New York, according to material; New Orleans, according to material; Cleveland, according to material; St. Louis, according to material; Philadelphia, 20 per cent; Baltimore, 20 per cent; Boston, 20 per cent.

Book No. 6.—New York, according to material; Philadelphia, according to material; Baltimore, according to material; St. Louis,

according to material; Cleveland, according to material; New Orleans, according to material; Boston, according to material.

Book No. 7.—New York, 50 per cent; New Orleans, 50 per cent; St. Louis, 50 per cent; Cleveland, 50 per cent; Philadelphia, 20 per cent; Baltimore, 20 per cent; Boston, 20 per cent.

Assistant Appraiser Hoffman moved that the silk and cotton velvets 18 inches in width and under, of which silk is the chief value, samples of which were presented by Philadelphia similar to those in suit in the Langfeld case, are dutiable at 20 per cent as hat trimmings.

The opinion of the board having been taken, the vote stood as follows: New York, 50 per cent; New Orleans, 50 per cent; Cleveland, 50 per cent; St. Louis, 50 per cent; Philadelphia, 20 per cent; Baltimore, 20 per cent; Boston, 20 per cent.

APPENDIX TO FOREGOING REPORT.

In reference to paragraph 448, the appraiser at New York places the classification according to material otherwise than braids, etc., named in said paragraph, as being controlled by the expression or any other substance or material not specially enumerated or provided for in this act," claiming as an exemplification that manufactures of silk which are not named as braids, plaits, etc., would be properly dutiable under paragraph 383. He claims that this construction of that paragraph is in harmony with the first proposition of the Department in Synopsis 8803, and that this classification prevails at the port of New York.

The ground upon which the assistant appraiser at New Orleans bases his action in the classification now submitted of the books of samples Nos. 1 to 7 inclusive, and mentioned above, is that in Synopsis 8803[1] the interpretation placed by the Department upon the recent decision of the Supreme Court in the case of Langfeld *v.* Hartranft on the subject of hat trimmings was that it was one of fact to be determined, and in the determination of which question "two propositions should be affirmatively established to entitle the goods to classification at the lower rate of duty, viz:

"First. That the goods are commercially known as braids, plaits, flats, laces, trimmings, etc., and were so commercially known and designated at the time of the passage of the tariff act of 1883.

"Second. That they are chiefly used in making or ornamenting hats, bonnets, and hoods."

In Synopsis 8914 the Department took the ground that "the commercial designation of the article governs the classification."

With the exception of book No. 1, none of the others stand the test applied to them by the two propositions above quoted, and which are to be taken jointly in their application.

Such trimmings as are included in the list of samples contained

[1] Exhibit XII.

in books Nos. 2 to 7 inclusive, were not commercially known and designated as trimmings for ornamenting hats at the time of the passage of the act of 1883, nor, indeed, are they distinctively known as such now. The intent of the law as contemplated at the time it was framed should govern in the application, and it was never intended to embrace hat trimmings other than those commercially known as such at the time, or which were then in established use.

As to the chief use of materials in determining their classification as hat materials, their use differs with the modes and fashion in vogue at different ports and in different climates, so that when the question is applied for what any material is chiefly used, as prescribed by the Department in the second proviso under its interpretation of the decision of the court, the answer is bound to be in accordance with the prevailing use at such port. It is impossible to establish a standard rule as to chief use applicable to the whole country, where the modes and fashions and uses of materials so essentially differ, and expert testimony at one port would conflict with that at another. Therefore the assistant appraiser at New Orleans is inclined to restrict the classification to those materials upon which there is no variance of opinion anywhere, both as to their intent and purpose at the time the act was passed as well as now, and which are embraced only in Book No. 1.

The appraiser of Cleveland said: "It is beyond the power of any merchant, of any court (with due respect to the courts), or of any appraiser, or of any human being under the canopy of heaven, to say knowingly that any or one-tenth of the articles that are imported and commercially known as silk ribbons and silk velvets are used more extensively for hat and bonnet trimmings than for dress trimmings and other purposes. This country is too large for that."

Assistant Appraiser Joslin, of Boston, said: "In my opinion, we have got just one question to determine: Are these goods commercially known as trimmings? If they are, they are 20 per cent. That is all there is about it. We have nothing to do with how many million dollars the importers get from the Federal Government. Are they commercially known as trimmings? That is the question."

The appraiser at St. Louis, Mr. Harrigan, votes for the higher rate of duty because they are not known commercially as hat or bonnet trimmings.

The appraiser at Baltimore was influenced in his votes upon the books of samples submitted to the conference by the instruction of the Department (Synopsis 8803[1] in propositions 1 and 2). He was, moreover, satisfied that the books of samples as he voted upon them corresponded in their classification to the sample books produced by him.

Assistant Appraiser Hoffman, of Philadelphia, said: "In view of the testimony offered, as well as that taken by the appraiser at Philadelphia, and the admissions made by the representatives

[1] Exhibit XII.

of the Silk Manufacturers' Association, that in the set of sample books prepared by the conference of appraisers held in December, 1886, that Books No. 2 and No. 4 are bonnet ribbons, used for trimming hats, bonnets, dresses, etc.; Book No. 5, millinery piece-goods used for trimming hats; Book No. 7, millinery gauzes used for trimming hats; and that silk and cotton velvets, 18 inches and under in width (millinery velvets) of which silk is the chief value, which are chiefly used as hat trimmings, all the above being in conformity with the decision of the United States Supreme Court in the case of *John F. Hartranft, collector of Philadelphia, in error*, v. *Langfeld, Lichten & Co.*, in which Judge Matthews in rendering the opinion of the Supreme Court says: 'The judge charged the jury, "it is the use to which these articles are chiefly adapted and for which they are used that determines their character."'

"Such being the case, and it being an admitted fact that they are chiefly used for ornamenting and trimming hats, bonnets, and hoods, therefore Philadelphia holds and votes that all goods represented in sample books Nos. 2, 4, 5, and 7, prepared by conference of December, 1886, and all velvets (millinery) of cotton and silk, 18 inches and under in width, of which silk is a component material of chief value, are properly dutiable as hat trimmings, being chiefly adapted and used as such under paragraph 448 (T. I., new), at 20 per cent and not at 50 per cent (paragraph 383, T. I., new), as a manufacture of silk of which silk is a component of chief value."

EXHIBIT XIV.

(9003.)

HAT TRIMMINGS—CLASSIFICATION OF.

TREASURY DEPARTMENT,
August 31, 1888.

SIR: In the Department's letter of June 23 last you were directed to suspend the reliquidation of entries of so-called hat materials under your construction of the decision of the Supreme Court in the Langfeldt case (Synopsis 8803) pending the consideration of the practical effect of said decision by the Board of United States Appraisers at its meeting at New York in July last.

The Board has reported that the books of samples, seven in number, heretofore prepared contain full and representative samples of merchandise claimed to be dutible as hat materials, and decided unanimously that the goods represented in book No. 1 were entitled to entry as hat materials, under T. I., 448, and by a majority vote that those represented in the other books were not so entitled.

The Department accepts the decision of the Board of Appraisers, and directs that the report of said Board and the books of samples shall be strictly followed in determining the questions involved.

The certified statements submitted with your letters of June 14, 18, and 20 last are therefore returned for reconsideration under this decision.

Please furnish the appraiser with a copy of this letter.

Respectfully, yours,

I. H. MAYNARD,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
Philadelphia, Pa.

EXHIBIT XV.

(9136.)

HAT TRIMMINGS OF SILK NOT DUTIABLE AS MATERIAL FOR HATS.

TREASURY DEPARTMENT,
November 26, 1888.

SIR: On the 7th instant you reported to the Department that after a consultation with the naval officer and the United States appraiser at your port, the conclusion was unanimously reached that imported merchandise consisting of silk ribbons and other manufactures of silk, intended for use and used in making and ornamenting hats, is dutiable at the rate of 50 per cent ad valorem under the provisions in Schedule L ("silk and silk goods" schedule), T. L., 383, for manufactures of silk, or of which silk is the component material of chief value, and not under the provision in Schedule N ("sundries" schedule), T. L., 448, for materials used for making or ornamenting hats, etc.

You further stated that, acting as a unit, the said officers were, in conjunction with yourself, of opinion that said paragraph 448 specifically provides that where the material is different from that of "straw, chip, grass, palm leaf, willow, hair," etc. (the articles named in paragraph 448), and is otherwise provided for in the tariff, then the duty should be assessed according to the rate imposed on manufactures of such material regardless of the uses to which it may be put.

The Department on the 13th instant, in reply to such letter, informed you that it would interpose no objection to your carrying out such views upon the liquidation of entries of such merchandise, and it is now understood that, in accordance therewith, you have either changed or propose to change the practice at your port so

as to conform thereto; that is, by classifying the said merchandise at a duty of 50 per cent ad valorem.

At a recent hearing at the Department, given to Mr. Vanderhoef, representing the manufacturers of hats in this country, and Mr. Roberts, representing the importers of silk ribbons and other manufactures of silk used in making and ornamenting hats, it was represented, among other things, that these goods had uniformly been assessed for duty at 20 per cent ad valorem under paragraph 448 since the passage of the act of 1883, and that a sudden change of the classification would involve the business of importers and manufacturers in great loss, but the Department, after a further examination of the question involved, has, nevertheless, reached the conclusion that the decision arrived at by yourself and associates is correct, and is in accordance with the letter as well as the intent of the tariff act of March 3, 1883, providing for the classification of fabrics of this character.

The goods in question are conceded to be manufactures of silk, and such are specifically enumerated or provided for in paragraph 383. It is immaterial whether the phrase "not specially enumerated or provided for in this act," in paragraph 448, shall be construed as referring to the fabric or to the material of which it is composed. In either case these goods can not be properly classified under that paragraph, because they are already enumerated in paragraph 383, at a duty of 50 per cent ad valorem.

It may be stated in this connection that great force exists in the suggestion of the naval officer that paragraph 448 is found in schedule N, relating to "sundries," which schedule may be termed the "omnibus schedule tariff act," and which was intended by Congress evidently to include all such articles as were not provided for in the preceding schedule, where manufactured articles are generally grouped according to the materials of which they are composed, and that if the effect of a given construction should be to transfer an article from the schedule where provision is made for the general class to which it belongs to the "sundries" schedule, the language employed should be clear and unambiguous.

There is a further consideration which is entitled to weight, which is that if the articles are of such a character that two or more rates of duty would be applicable, the case falls within section 2499 of the Revised Statutes, and they must be classified for duty under the highest of such rates. It, however, appears that since the passage of the said tariff act of March 3, 1883, it has been the practice of customs officers, which has received the approval of the Department, to classify the said hat-bands under paragraph 448, and assess duty at the rate of 20 per cent ad valorem.

A change in the classification which has prevailed for so long a period of time should not be made except upon timely notice to all persons engaged in the business of importing and dealing in such merchandise, and in the judgment of the Department where it is made to appear to the satisfaction of the collector that the

goods were ordered prior to the announcement of his decision changing the classification, the entry should be liquidated and the duty assessed according to the practice which prevailed before the change was made.

You will be governed in the liquidation of entries made at your port in accordance with these views.

Respectfully yours,

I. H. MAYNARD
Assistant Secretary.

COLLECTOR OF CUSTOMS,
New York.

EXHIBIT XVI.

(9166.)

HAT TRIMMINGS.

(The rule contained in synopsis 9136[1] to be applied to importations entered on and after January 1, 1889.)

TREASURY DEPARTMENT,
December 20, 1888.

SIR: The Department duly received your letter of the 17th instant, with inclosuers from W. H. Graef & Co., relative to the taking effect of your decision of the 7th ultimo (confirmed by the Department on the 13th and 26th *idem*, Synopsis 9136) on hat trimmings of silk and other material, and in reply thereto I have to state that Messrs. ———, in behalf of the importers of this class of goods, have made a personal presentation of the matter at the Department, and it appears from the papers and statements submitted by them that all the importers of this line of goods have united in a request that the change of classification established by said decision be applied to those invoices only which are entered at your port on and after the 1st day of January, 1889.

It appearing further that some of the invoices now arriving are of a mixed character, embracing purchases made before as well as after the 7th day of November, making it difficult to apply the instructions given by the Department upon the subject, and that a large portion of the invoices arrived before January 1, must necessarily be made up of purchases made or consignments ordered prior to November 7, and that so far as the same contain purchases made or consignments ordered subsequent to November 7, the amount thereof would probably no more than equal the amount of purchases made or consignments ordered prior to said date, which would not arrive until after December 31, the Department has concluded to authorize you, in case you perceive no valid objection to such course, to suspend the application of the change in classification of these goods resulting from your decision of

[1] Exhibit XV.

November 7 until January 1, and to apply it to all invoices of these goods entered at your port on and after that date.

It is believed that the adoption of this course will work substantial justice to all parties engaged in the importation of these goods, and at the same time protect the Government against loss and relieve the administration of the service from complications which may arise from the application of instructions heretofore given.

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Respectfully, yours,

I. H. MAYNARD,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
New York.

EXHIBIT XVII.

(ROBERTSON v. EDELHOFF, 132 U. S., 614.)

EXHIBIT XVIII.

(9854.)

HAT MATERIALS AND TRIMMINGS—REVOCATION OF PRIOR RULINGS.

Robertson v. *Edelhoff.*

TREASURY DEPARTMENT,
February 11, 1890.

SIR: I transmit herewith, for your information and guidance, a copy of a recent decision of the Supreme Court of the United States in the case of *William H. Robertson, collector, etc., plaintiff in error*, against *Charles A. Edelhoff and another*, regarding the classification under the existing tariff acts of certain ribbons composed of silk and cotton, of which silk is the component material of chief value.

It will be seen that the decision enunciates the principle that articles of the class in dispute, which are chiefly used for making and ornamenting hats, etc., and which are not elsewhere specifically named in the tariff acts, are dutiable at the rate of 20 per cent ad valorem under the provision in Schedule N (T. I., 448), for "Hats, and so forth, materials for: Braids, plaits, flats, laces, trimmings, tissues, willow sheets, and squares, used for making or ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm-leaf, willow, hair, whalebone, or any other substance or material not specially enumerated or provided for in this act, twenty per centum ad valorem," regardless of the fact that they are of silk or that silk is the component material of chief value.

The rule here laid down by the court reverses the previous rulings of the Department regarding hat trimmings, and you will therefore consider such rulings as revoked, and cause the practice at your port to conform to this decision.

You are also directed, upon due entry of judgment in the above suit, in pursuance of the mandate of the United States Supreme Court, to take the necessary steps for its settlement by forwarding the usual certified statement for the consideration of the Department.

A similar course may be pursued with regard to any other suits now pending at your port, involving the same questions, where the requirements of law as to protest, appeal, institution of suit, etc., have been duly observed, with the understanding, however, that before reliquidating any entries embraced in the suit, you shall submit the invoices to the United States appraiser for his report as to the character of the merchandise, and be satisfied that, under this decision, duties in excess of 20 per cent ad valorem were erroneously exacted.

Entries of such merchandise, unliquidated and those liquidated, with due protest and appeal pending, may also be adjusted in accordance with this decision upon your being satisfied, as aforesaid, of the character of the goods.

In applying the decision it is important that the practice thereunder shall be uniform at all the ports where such merchandise is usually imported, and you are therefore requested to instruct the United States appraiser at your port to communicate with the appraising officers at the other principal ports for the purpose of attaining that object.

Respectfully, yours,

GEORGE C. TICHENOR,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
Boston, Mass.

(3104 *e.*)

EXHIBIT XIX.

REPORT OF CONFERENCE OF APPRAISERS.

March, 1890.

(No. 9915.)

To collectors and other officers of the customs:

The following report of the special conference of appraisers recently held in New York City, for the purpose of consulation as to the practical operation of the decision of the United States Supreme Court in the case of *Robertson* v. *Edelhoff*, is published for your information.

GEORGE C. TICHENOR,
Assistant Secretary.

Report of the conference of local appraisers held at the port of New York, February 24 to March 1, 1890, inclusive, on the subject of hat materials.

M. W. COOPER, *Chairman.* THAD. S. SHARRETTS, *Recorder.*

MEMBERS.

M. W. Cooper, appraiser	New York.
A. B. Stearns	Boston.
D. C. Clarke, asssistant appraiser	Philadelphia.
Thad. S. Sharretts, appraiser	Baltimore.
F. G. Hoyne, appraiser	Chicago.

NEW YORK CITY, *March 1, 1890.*

SIR: In accordance with the Department letter of February 13, 1890, signed by Hon. George C. Tichenor, Assistant Secretary of the Treasury, in which it was held that in view of the magnitude of the interests involved and of the importance of establishing a uniform practice in the reliquidation of entries, under the decision of the United States Supreme Court, in the case of *Robertson* vs. *Edelhoff*, relating to the dutiable character of certain hat materials, it was deemed expedient that the appraisers at the ports of New York, Boston, Philadelphia, Baltimore, and Chicago should meet in conference at the appraiser's office, New York, at 12 o'clock noon, February 24, 1890, for the purpose of agreeing upon a practice to be followed under said decision, with instructions to forward their conclusions in writing to your Department for the information of all concerned, I have the honor to submit the following report.

* * * * * * *

By order of the Department, we have been instructed to agree upon a practice, in order to secure uniformity at all ports, a desideratum that has not been accomplished during the past seven years; but appreciating the absolute necessity of now finally reaching a unanimous conclusion, the board deemed it advisable to consult with the leading importers and manufacturers in New York and neighboring cities, having in view the counter opinions of manufacturers and importers, since they were of the opinion that such a course would tend in a measure to reconcile those whose claims were partially if not wholly disallowed, and in many instances obviate further litigation.

In arriving at a unanimous conclusion, the conference of appraisers, recognizing the fact that the refund of duties will largely inure to the benefit of foreign manufacturers, and in no instance to the consumers, who have in all cases paid the excess of duties in an enhanced valuation, have strenuously demanded that the principal use of the articles considered must be presumptively shown to have been for trimming, ornamenting, or making hats, etc., before advising that they had been erroneously rated for duty at 50 per cent. Still, with this point in view, we have recognized that an actual knowledge or proof of the chief use of any of the hundreds

of articles considered could not be arrived at, and in order that further contests as far as practicable be obviated, the conference has accepted the views of the importers and manufacturers where they have united in an opinion as to the vital facts of the case.

The conference would recommend that retained samples in the appraiser's department, or samples which have been accepted by appraisers furnished by importers covering the classification of all merchandise upon appeal, must be furnished, together with the sworn testimony of the importer that the samples truly and fairly represent the merchandise, and that the said merchandise was imported chiefly for making or ornamenting hats, bonnets, or hoods.

The following schedule designates the articles which, in the opinion of the conference of the appraisers, are chiefly used in making or ornamenting hats, etc., and they have been subdivided into classes 1, 2, 3, as follows:

Ribbons which by decisions of the United States Supreme Court are covered by the provisions of paragraph T. L., 448, under the term "trimmings."

Laces, one of the eight enumerations contained in paragraph 448.

Piece of goods not commercially known as trimmings.

SCHEDULE OF ARTICLES.

Class 1.—Ribbons, commercially known as trimmings.

All ribbons of silk and silk and cotton: silk, chief value from twenty lines to sixty lines inclusive, except gauze ribbons.

Gauze ribbons of every description.

Satin-back velvet ribbons.

Hat bands.

Class 2.—Laces specially enumerated in paragraph 448.

Fancy-colored laces (excepting all black), not exceeding sixty-five lines in width, of which silk is the component of chief value.

Class 3.—Piece of goods, known as millinery materials, but not commercially known as trimmings (in the condition in which imported), but conceded to be intended chiefly for making and ornamenting hats, etc., comprising—

Plain velvets not exceeding 18½ inches in width.

Cotton-back satins, not exceeding 24 inches in width or valued at not exceeding 4 francs per meter, subject to trade discount.

Millinery gauzes, except veilings.

Very respectfully,

THAD. S. SHARRETTS,
Recorder.

Hon. WILLIAM WINDOM,
Secretary of the Treasury, Washington, D. C.

EXHIBIT XX.

(11798.)

REFUND ON HAT TRIMMINGS.

TREASURY DEPARTMENT,
September 22, 1891.

SIR: The instructions of this Department of December 29, 1890, suspending the reliquidation of protested articles claimed to be hat trimmings, are hereby revoked, and upon the reclassification by the local appraisers as to "chief use," subject to the limitations hereinafter specified, and in accordance with the principle announced in the circular dated February 11, 1890 (Synopsis 9854),[1] the entry shall be reliquidated, and certified statements shall be prepared and forwarded to this Department upon discontinuance of suits. The return of the local appraisers will be accompanied by samples of the merchandise passed as hat trimmings in each case referred to the general appraisers, and in other cases if required by the Department. Invoices, however, covering plushes, velvets, and satins, and all other piece goods, shall, as to those articles, be submitted to General Appraisers Tichenor, Ham, and Jewell for their determination as to whether they are covered by paragraph 448 of the act of March 3, 1883, and can properly be classified as hat trimmings.

This reference to the above-named general appraisers shall not include the articles or goods identical with the articles which were found not to be hat trimmings by the verdict in the case of Meyer et al. *vs.* Cadwallader, tried at the April term of the United States circuit court at Philadelphia (the same being held by the Department not to be hat trimmings).

The general appraisers shall pass upon the classification of the merchandise submitted to them, and their determination shall be final and the reliquidation shall be made upon such finding.

No payments will be made under this order until suits shall be discontinued in full as to all articles protested as hat trimmings, and the attorneys of record, or the importers, shall sign a stipulation that no further suits shall be instituted to recover refunds on articles claimed as hat trimmings covered by invoices heretofore the basis of such suits.

Application having been made by Messrs. Charles Curie, Tremain & Tyler, and Alexander P. Ketchum, attorneys for various plaintiffs, for settlements upon the foregoing conditions, you are instructed to prepare and forward certified statements in accordance with this order in the cases in which said parties appear as attorneys and apply for a refund.

You will also pursue the same course with reference to the claims of any other attorneys who may signify their willingness,

[1] Exhibit XVIII.

in writing, to have their cases adjusted on the basis of this letter.

Synopsis 9915 is hereby revoked.

Respectfully, yours,

CHARLES FOSTER,
Secretary.

COLLECTOR OF CUSTOMS,
New York.
(3104*e*.)

EXHIBIT XXI.

(Circular.)

HAT MATERIALS.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., January 14, 1893.

To collectors and other officers of the customs:

Upon the filing of total discontinuance of suit and of stipulation that no further suit shall be instituted to recover refunds on articles claimed as hat trimmings, covered by invoices included in said suit, refund will be made upon such of the following specified articles and such other articles as have been or may be found by the committee of the board of general appraisers to be chiefly used in making or ornamenting hats, bonnets, hoods, etc.:

Ribbons, commercially known as trimmings, manufactured of silk or of silk and cotton, silk chief value, from 30 lines to 60 lines, inclusive, except gauze ribbons.

Gauze ribbons of every description.

Satin black velvet ribbons, 13 lines to 60 lines, inclusive.

Hat bands.

Laces other than cotton, linen, or metal laces, not exceeding 65 lines in width.

Silk laces, or of which silk is the component material of chief value, not exceeding 65 lines in width.

Satins woven in the grey with silk warp and cotton filling, known in the trade as piece-dyed satins or hatters' satins, not exceeding 24 inches in width, and not costing above 3.50 francs per aune, less trade discount.

Silk-faced velvets (not chappe), known in the trade as millinery velvet, of light weight, short and loose pile, which shir easily and are designed rather for show than wear, not exceeding 18½ inches in width.

Fancy millinery piece goods, such as tufted gauzes and other millinery novelties, made of silk or of silk and cotton, silk chief value, or wool, silk and wool, or wool and cotton, not exceeding 18 inches in width.

Crepe Française, not exceeding 55 centimeters in width, costing not above 75 centimes per aune, less trade discount.

Chins, manufactured of silk and cotton, silk chief value, not exceeding 32 inches in width and costing not above 60 centimes per aune, less trade discount.

Marceline, not exceeding 19 inches in width, and costing not above 90 centimes per aune, less trade discount.

Malines, not exceeding 27 inches in width, costing not above 40 centimes per meter, less trade discount.

O. L. SPAULDING,
Assistant Secretary.

EXHIBIT XXII.

RECALL OF CIRCULAR OF JANUARY 14, 1893.

UNITED STATES OF AMERICA,
TREASURY DEPARTMENT,
March 3, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby do certify that the annexed paper is a copy from the press copy of the original letter in this Department.

In witness whereof, I have hereunto set my hand and caused the seal of the Treasury Department to be affixed, on the day and year first written.

CHARLES FOSTER,
Secretary of the Treasury.

[SEAL.]

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 2, 1893.

COLLECTOR OF CUSTOMS,
New York, N. Y.:

SIR: The Department's circular of January 14, 1893 (not printed), authorizing refunds on certain articles claimed to be hat trimmings, upon total discontinuance of suit and upon stipulation, is hereby revoked.

Respectfully, yours,

O. L. SPAULDING,
Assistant Secretary.

EXHIBIT XXIII.

A.

OFFICE OF UNITED STATES ATTORNEY,
EASTERN DISTRICT OF PENNSYLVANIA,
Philadelphia, April 19, 1886.

Hon. DANIEL MANNING,
Secretary of the Treasury:

SIR: I have the honor to inclose herewith a copy of the stenographic report of the evidence and charge of the court in the case of *Langfeld et al.* vs. *Hartranft*, late collector, United States circuit court, April sessions, 1884, No. 3.

The case was tried at the present sessions of the court, before the Hon. William McKennan.

The suit was to receive an excess of duty claimed by the plaintiffs to have been paid on four different kinds of goods, viz:

1. Goods returned as subject to a duty of 40 per cent ad valorem, under schedule 1, *act March 3, 1883* (23 Stat., 506), as cotton velvets.
2. Velvets.
3. Velvet ribbons.
4. Hat plush.

The last three kinds were returned as dutiable at 50 per cent ad valorem under Schedule L, *act of March 3, 1883* (22 Stat., 510), as manufactures of silk and cotton of which silk was the component material of chief value.

Plaintiffs claimed that these goods were dutiable as hat trimmings, etc., at 20 per cent ad valorem, under Schedule N, *act of March 3, 1883* (22 Stat., 512).

The plaintiffs abandoned their cases as to the first-named articles and the case was presented to the jury as to the other three.

The verdict was for the plantiffs as to the velvets and hat plush, and for the defendant as to the velvet ribbons.

The preponderance of the evidence, in my opinion, was for the defendant as to the velvets also, and for this reason I have moved for a new trial. There was no question under the evidence but that the hat plush was an article used exclusively for making hats and under the charge of the court, the verdict of the jury was properly for the plaintiffs as to these goods. The weight of the evidence was that the velvet ribbons were generally used for dress and not for millinery purposes and the verdict was properly for the defendant as to these goods, under the charge of the court.

I called the attention of the court to the decisions of your Department bearing on the question involved; especially to that of February 24, 1886, Synopsis of Decisions, 7377.

The amount involved as to the cotton velvets (which was abandoned) was $251.20; the verdict of the jury for the velvet and plush, was for the sum of $856.56.

In view of the facts of the case and the charge of the court, I do not recommend a writ of error in the event of the court refusing a new trial; but I would be pleased to have your instructions thereon.

I attribute the verdict of the jury as to the velvets to the confusion of Mr. Fisher, the examiner, incident to there being no Government samples preserved in this case.

Under date of November 27, 1885, in a letter to you, I had the honor to call your attention to the fact that it often happens that samples could not be found at the appraiser's office when needed for the trial of causes. I again call attention to the importance of samples being preserved in all contested cases.

Very respectfully,

JOHN K. VALENTINE,
United States Attorney.

C.

OFFICE OF THE COLLECTOR OF CUSTOMS,
Port of Philadelphia, February 21, 1893.

ELLERY P. INGHAM, Esq.,
U. S. Attorney, Philada.:

SIR: Referring to your note of this date, I beg to inform you that this office retained no copy of the certified statement sent Dep't June 12, '88, in settlement of U. S. C. C., April sess., 1884, No. 3 (judgment case), *Langfeld et al.* v. *Hartranft.*

The statement was made up as follows:

Principal	$843.90
Interest	241.40
Costs	136.20
	1,221.50

But in remitting draft for $1,102.92 the Department distributed the amount as follows:

Principal	$856.56
Interest	110.16
Costs	136.20
	1,102.92

If there is any other information you require, which the records of this office can furnish, it will give me pleasure to supply it.

Very respectfully,

F. J. CRILLY,
Sp'l Dep'y Collector.

EXHIBIT XXIV.

HAT MATERIAL CLAUSE FROM 1832 TO 1861.

Act of 1832 (4 Stats., 59):

"On all Leghorn hats or bonnets, and on all hats or bonnets of straw, chip, or grass, and all flats, braids, or plaits, for making hats or bonnets, thirty per cent."

Act of 1842 (5 Stat., 555):

"On hats and bonnets, for men, women, and children, from Panama, Manilla, Leghorn, Naples, or elsewhere, composed of satin, straw, chip, grass straw, palm leaf, rattan, willow, or any other vegetable substance, or of hair, whalebone, or other material, not otherwise specified, a duty of thirty-five per centum *ad valorem*, provided that all flats, braids, plaits, sparterre, or willow squares used for making hats or bonnets, shall pay the same rate of duty as manufactured hats or bonnets."

Act of 1846 (9 Stat., 45):

"Hats and bonnets for men, women, and children, composed of straw, satin straw, chip, grass, palm leaf, willow, or any other vegetable substance, or of hair, whalebone, or other material not otherwise provided for.

"Flats, braids, sparterre, and willow squares used for making hats or bonnets."

EXHIBIT XXV.

(26 Stat., 8.)

CHAP. 13.—An act to modify existing laws relating to duties on imports and the collection of the revenue

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the passage and approval of this act the following amendments to, and provision for, existing laws shall take effect, as follows:

Section six of the act of March third, eighteen hundred and eighty-three, entitled "An act to reduce internal-revenue taxation, and for other purposes," providing a substitute for title thirty-three of the Revised Statutes of the United States, is hereby amended as to the following section or part of section or schedule in such substituted title as follows:

Section 2502, Schedule N, strike out the clause of this schedule commencing with the words: "hats, and so forth, materials for," and insert in lieu thereof the following: "Braids, plaits, flats, willow sheets, and squares fit only for use in making or ornamenting hats, bonnets, and hoods composed of straw, chip, grass, palmleaf, willow, hair, whalebone, or any vegetable material, not

specially enumerated or provided for, twenty per centum ad valorem."

SEC. 2. All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

Approved, February 18, 1890.

EXHIBIT XXVI.

DUTY ON MANUFACTURES OF COTTON.

(Act of 1862; 12 Stat., 553.)

SEC. 10. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty; that is to say:

First. On all manufactures of cotton, bleached or unbleached, and not colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, one-fourth of one cent per square yard; on finer or lighter goods of like description, not exceeding one hundred and forty threads to the square inch, counting the warp and filling, one-half cent per square yard; on goods of like description, exceeding one hundred and forty threads, and not exceeding two hundred threads to the square inch, counting the warp and filling, three-fourths of one cent per square yard; on like goods, exceeding two hundred threads to the square inch, counting the warp and filling, one cent per square yard; on all goods embraced in the foregoing schedules (except jeans, denimes, drillings, bedticking, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of sixteen cents per square yard), if printed, painted, colored, or stained, they shall be considered to have been bleached goods, and there shall be levied, collected, and paid a duty of one cent per square yard, in addition to the rates of duty provided for bleached goods. *Provided*, That upon all plain woven cotton goods, not included in the foregoing schedule, and upon cotton goods of every description, the value of which shall exceed sixteen cents per square yard, there shall be levied, collected, and paid, a duty of five per centum ad valorem; *And provided further*, That no cotton goods, having more than two hundred threads to the square inch, is provided for goods which are of that number of threads.

Second. On spool and other thread of cotton, ten per centum ad valorem.

Third. On shirts and drawers, wove or made on frames, composed wholly of cotton and cotton velvet, five per centum ad valorem.

Fourth. On all cotton jeans, denimes, drillings, bedtickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of sixteen cents per square yard, two cents per square yard; and on all manufactures composed wholly of cotton, bleached, unbleached, printed, or dyed, not otherwise provided for, five per centum ad valorem.

EXHIBIT XXVII.

DEFINITIONS OF THE WORD MARCELINE.

1. WEBSTER'S DICTIONARY (1890): Marceline, [F., fr. L. *marcidus* withered, fr. *marcere* to wither, shrivel]. A thin silk fabric used for linings, etc., in ladies' dresses.
2. THE CENTURY DICTIONARY: Marceline (mär-se-lin), *n.* [Also *marcelline;* fr. F. *marceline* (a trade-name?).] A thin silk fabric used for linings, etc., in women's costume.
3. THE ENCYCLOPÆDIC DICTIONARY (1885): Mar-cĕl-ine, *s.* [Fr. from Lat. *marceo* = to be weak or thin]. *Fabric:* A thin silk tissue used for linings, &c., ladies' dresses.
4. THE IMPERIAL DICTIONARY (1883). Marceline (mär'se-lin), *n.* [Fr. fr. Lat. *marceo*, to be weak, thin.] A thin silk tissue used for linings, &c., in ladies' dresses.
5. DICTIONNAIRE DE LA LANGUE FRANÇAISE, *par E. L'tréi de l'Academiẽ Française*, (1874). Marceline (mar-se-li-n'),. S. f. E'toffe de Soie, espèce de florence, mais plus large et plus forte.